

If the COTP determines that the security zones need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter all portions of the regulated areas.

Dated: July 31, 2023.

**M.A. McDonnell,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0892; EPA-R04-OAR-2022-0851; FRL-10928-02-R4]

#### Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards; Amendments to Stationary Sources—Emission Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Florida on November 22, 2016, and supplemented on September 30, 2022, through the Florida Department of Environmental Protection (FDEP). The November 22, 2016, SIP revision is in response to EPA's SIP Call published on June 12, 2015, concerning excess emissions during startup, shutdown, and malfunction (SSM) events. The September 30, 2022, supplemental SIP revision addresses additional SSM-related rule amendments identified by the State and the addition of source specific sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) emission limits. EPA is approving these SIP revisions and finds that they correct the deficiencies identified in the June 12, 2015, SIP Call. EPA is also approving a portion of a SIP revision submitted by FDEP on April 1, 2022, which modifies provisions that regulate emissions of SO<sub>2</sub>, NO<sub>x</sub>, and visible emissions and modifies requirements for major stationary sources of volatile organic compounds (VOC) and NO<sub>x</sub>.

**DATES:** This rule is effective September 5, 2023.

**ADDRESSES:** EPA has established dockets for these actions under Docket Identification Nos. EPA-R04-OAR-2022-0892 and EPA-R04-OAR-2022-

0851. All documents in the dockets are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be 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 Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation 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 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:** Joel Huey, Manager, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9104. Mr. Huey can also be reached via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### *a. Florida's November 22, 2016, and September 30, 2022, SIP Submissions*

On November 22, 2016, FDEP submitted a revision to the Florida SIP (referred to hereinafter as Florida's "Excess Emissions Rule SIP Revision") in response to EPA's June 12, 2015, action titled "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" ("2015 SSM SIP Action"). See 80 FR 33839 (June 12, 2015). In the Excess Emissions Rule SIP Revision, FDEP requests EPA approval of the following changes to the Florida SIP: (1) Removal of Florida Administrative Code Rule (referred to hereinafter referred as "Rule") 62-210.700(4) with the addition of equivalent language to Rules 62-210.700(1) and (2); (2) amendment of Rule 62-210.700(3) to revise the particulate matter (PM) limits applicable during boiler cleaning (soot blowing)

and load changes by removing the statement that excess emissions during these periods "shall be permitted," removing the exemption for pollutants other than PM and visible emissions, and removing a specific allowance for visible emissions which exceed 60 percent opacity for up to four six-minute periods during the 3-hour period of excess emissions allowed for soot blowing or load change; (3) addition of Rule 62-210.700(6), which states that Rules 62-210.700(1) and (2) shall not apply after May 22, 2018, to either category-specific or unit-specific limits that have been incorporated into Florida's SIP; and (4) addition of Rule 62-210.700(7), which states that after the State's effective date of the rule change (October 23, 2016), Rules 62-210.700(1) and (2) shall not apply to new permit-specific emission limits established pursuant to Florida's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations (Rules 62-212.400 and 62-210.500). The Excess Emissions Rule SIP revision includes information demonstrating that these changes will not interfere with any applicable requirement concerning attainment of any National Ambient Air Quality Standards (NAAQS) and reasonable further progress (RFP), or with any other applicable requirement of the Clean Air Act (CAA or Act).

On September 30, 2022, FDEP submitted a supplemental revision (referred to hereinafter as Florida's "Supplemental SSM SIP Revision") to the State's November 22, 2016, Excess Emissions Rule SIP Revision. In the Supplemental SSM SIP Revision, FDEP includes alternative SIP emission limits for those SIP emission limits that it identified as "problematic" if applied continuously and several changes to language throughout Chapter 62-296. The State requests EPA approval of the following changes: (1) Amendment of existing Rule 62-296.405, "Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input," and Rule 62-296.570, "Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO<sub>x</sub>-Emitting Facilities," to clarify how emissions are calculated, including during periods of startup, shutdown, and malfunction; (2) addition of emissions-unit-specific SO<sub>2</sub> and NO<sub>x</sub> emission limits for certain sulfuric acid plants (SAPs) and nitric acid plants (NAPs) in Florida; (3) removal of SO<sub>2</sub> emission limits in Rule 62-296.402, "Sulfuric Acid Plants"; and (4) removal of NO<sub>x</sub> emission limits in Rule 62-296.408, "Nitric Acid Plants." The

Supplemental SSM SIP revision includes technical support materials to demonstrate that these changes will not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or with any other applicable requirement of the Act.

On May 8, 2023, EPA proposed to approve FDEP's November 22, 2016, and September 30, 2022, SIP revisions. See 88 FR 29598. That notice of proposed rulemaking (NPRM) is titled "Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards" (Excess Emissions Proposal). In the Excess Emissions Proposal, EPA also proposed to determine that the SIP revisions correct the deficiencies that the Agency identified in the 2015 SSM SIP Action with respect to Florida. The reasons for the proposed approval and determination are stated in the Excess Emissions Proposal and will not be restated here. The public comment period for EPA's proposed approval and determination ended on June 7, 2023. EPA received one favorable comment and one set of comments in a joint letter submitted by the Sierra Club and the Environmental Integrity Project (hereinafter collectively referred to as the Commenters) which agree in part and disagree in part with EPA's proposed action. Both sets of comments are available in Docket No. EPA-R04-OAR-2022-0892.

#### b. Florida's April 1, 2022, SIP Submission

On April 1, 2022, FDEP submitted a SIP revision seeking to revise Rules 62–296.405, "Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input," and 62–296.570, "Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO<sub>x</sub>-Emitting Facilities."<sup>1</sup> Florida's April 1, 2022, SIP revision includes technical support materials to demonstrate that the changes and deletions to these rules will not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or with any other applicable requirement of the Act.

Specifically, the April 1, 2022, submission contains changes to the following provisions in Rule 62–

296.405: 62–296.405(1)(a); 62–296.405(1)(c)1.; 62–296.405(1)(c)1.b. through e.; 62–296.405(1)(c)1.h. through i.; 62–296.405(1)(c)2.a., b., and d.; 62–296.405(1)(c)3.; 62–296.405(1)(d)3.; 62–296.405(1)(e); and 62–296.405(2). These provisions regulate emissions of SO<sub>2</sub>, NO<sub>x</sub>, and visible emissions from certain fossil fuel-fired steam generators with more than 250 million British thermal units (Btu) per hour heat input. The changes to these provisions revise a visible emissions limitation and clarify to whom the results of visible emissions testing must be submitted. The changes also remove outdated language, including emission limits for sources that have shut down or have more stringent federally enforceable limits, add specific citations for EPA test methods, and make minor wording edits. These changes do not allow for any pollutant emission increases because they only (1) remove certain SIP rules that are either obsolete or that are redundant for units that have more stringent federally enforceable limits in the SIP and (2) revise other rules in a way that would not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA.

The April 1, 2022, submission also removes obsolete provisions in Rule 62–296–570, "Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO<sub>x</sub>-Emitting Facilities" and makes changes to clarify the intent of the Rule and update certain cross-references. FDEP developed Rule 62–296.570 to implement VOC and NO<sub>x</sub> RACT for existing major sources of VOC and NO<sub>x</sub> in its then moderate ozone nonattainment area—the South Florida Area (consisting of Broward, Dade, and Palm Beach Counties)—as required by CAA section 182.<sup>3</sup> After EPA redesignated the South Florida Area to attainment, Florida revised its RACT rules such that Rule 62–296.570 now applies to the South Florida maintenance area.<sup>4</sup> EPA has evaluated the State's non-interference

<sup>3</sup> See 60 FR 2688, 2689 (January 11, 1995) (approving Florida's January 8, 1993, SIP revision and noting that Florida's RACT rule "applies to the 1990 Clean Air Act Amendment requirement for RACT for existing major sources of VOCs and NO<sub>x</sub> in Florida's moderate non-attainment area."). The fact that Rule 62–296.570 applies solely to existing units is further evidenced by language in Florida's January 8, 1993, SIP revision (available in the docket for this rulemaking), the May 31, 1995, compliance date in Rule 62–296.570(4)(a)1, and the exclusion of new and modified major VOC- and NO<sub>x</sub> emitting facilities subject to major new source review through Rule 62–296.570(1)(a) (referencing Rule 62–296.500(1)(b)).

<sup>4</sup> See 60 FR 10325 (February 24, 1995) (redesignating the South Florida Area to attainment); 64 FR 32346 (June 16, 1999).

demonstration and finds that the changes to Rule 62–296.570 would not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or any other applicable requirement of the CAA.

In a NPRM published on May 8, 2023, EPA proposed to approve the portion of Florida's April 1, 2022, SIP revision seeking to amend Rules 62–296.405 and 62–296.570. See 88 FR 29591. That notice of proposed rulemaking is titled "Air Plan Approval; Florida; Amendments to Stationary Sources—Emission Standards" (Emission Standards Proposal). Comments on the Emission Standards Proposal were due on or before June 7, 2023. EPA received no comments on the Emission Standards Proposal.

## II. Response to Comments

This section contains summaries of the comments received and EPA's responses.

*Comment 1:* Regarding the removal of SO<sub>2</sub> and NO<sub>x</sub> emission limits from Rules 62–296.402, "Sulfuric Acid Plants," and 62–296.408, "Nitric Acid Plants," respectively, Commenters state that "EPA posits that a longer-term limit will protect the 1-hour SO<sub>2</sub> NAAQs if it is of comparable stringency to a maximum 1-hour NAAQS-protective 'critical emission value' that provides for attainment."<sup>5</sup> Commenters then note that EPA's 2014 SO<sub>2</sub> Nonattainment Guidance (SO<sub>2</sub> Nonattainment Guidance)<sup>6</sup> sets out a method that uses an "equivalency ratio" derived by compiling a representative distribution, or sample set, of actual emissions data on a 1-hour average to compute a distribution of longer-term emission averages and then a ratio of the 99th percentile of the longer-term values to the 99th percentile of the hourly values.<sup>7</sup> Commenters assert that Florida's proposed longer-term average limits are based on EPA's SO<sub>2</sub> Nonattainment Guidance and that "one obvious problem" with the method is that the equivalency ratio can vary greatly depending on the selected data set.<sup>8</sup> Commenters go on to state that EPA has not provided all relevant information about the data set used to

<sup>5</sup> Although this statement only appears in the comment regarding SO<sub>2</sub> limits in Rule 62–296.407, Commenters note in their comment regarding NO<sub>x</sub> limits in Rule 62–296.408 that they "have the same concerns . . . as with the SO<sub>2</sub> limits." The comments on the NO<sub>x</sub> limits relate to the 1-hour NO<sub>2</sub> NAAQS.

<sup>6</sup> See SO<sub>2</sub> Nonattainment Guidance, [https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance\\_nonattainment\\_sip.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf).

<sup>7</sup> See *supra* note 5.

<sup>8</sup> *Id.*

<sup>1</sup> On March 30, 2023, Florida submitted a letter to EPA withdrawing the removal of Rule 62–296.405(1)(c)1.g. and 62–296.405(1)(d)2., from EPA's consideration. For this reason, EPA is not acting on the removal of (1)(c)1.g. and (1)(d)2 described in the April 1, 2022, SIP revision. The letter is available in the docket for this rulemaking.

<sup>2</sup> The April 1, 2022, submittal transmits several changes to other Florida SIP-approved rules. These changes are not addressed in this rulemaking and will be considered by EPA in a separate rulemaking.

calculate the source-specific limits and it is therefore unclear whether the selected data are appropriate and whether they yield standards comparable to what might result from other potentially representative data.

*Response 1:* Regarding the Commenters' statement that "EPA posits that a longer-term average limit will protect the 1-hour SO<sub>2</sub> NAAQS . . . , " the Excess Emissions Proposal does not, as the statement may suggest, include new policy statements on the use of longer-term average limits for NAAQS attainment planning purposes. Rather, in the Excess Emissions Proposal, EPA merely summarizes the approach for establishing acceptable longer-term average emission limits included in the SO<sub>2</sub> Nonattainment Guidance. The proposal also notes that all areas in Florida that had been through the attainment planning and/or designation process had been redesignated and, in Sections II.B.5.I. and II.B.5.II., details the methodology that Florida employed to determine proposed longer-term average emission limits for several sulfuric acid plants (SAPs) and nitric acid plants (NAPs) in the State. EPA also specifically highlights the differences between the attainment planning approach laid out in the SO<sub>2</sub> Nonattainment Guidance and the assessment made for determining comparably stringent limits to replace the existing SIP-rule limits.

As discussed in the Excess Emissions Proposal, Florida's longer-term average emission limits for several SAPs and NAPs in the September 30, 2022, SIP revision are not based entirely on the SO<sub>2</sub> Nonattainment Guidance. As FDEP explains in its SIP submittal, to set reasonable longer-term average emission limits that would be comparable to the existing SIP-rule emission limits proposed for removal from the SIP, the State made use of the statistical principles that EPA applied in the SO<sub>2</sub> Nonattainment Guidance to calculate equivalency ratios. In the Excess Emissions Proposal, EPA states that Florida made use of similar statistical approaches to the approach outlined in the guidance when developing its source-specific emission limits for SO<sub>2</sub> and NO<sub>x</sub>. See 88 FR 29598, 29605–08. Making use of a similar statistical analysis of actual emissions data to develop longer-term average emission limits that would be comparable to existing SIP-rule emission limits and not allow emissions increases is not the same as applying the guidance for demonstrating that a prospective limit is sufficient to provide for attainment of the NAAQS.

As noted above, the Excess Emissions Proposal discusses the modified methodology for determining the longer-term average emission limits that can replace the existing SIP rule SO<sub>2</sub> emission limits for SAPs and the existing SIP rule NO<sub>x</sub> emission limits for NAPs. The analysis demonstrates that the longer-term average emission limits are comparably stringent to those existing SIP emission limits and, therefore, do not allow any emissions increases. The detailed analysis described in section II.B.5. of the Excess Emissions Proposal explains why the longer-term emission limits developed by Florida are comparably stringent to the existing SIP limits. The proposal also specifically details how Florida's approach in establishing longer-term average emission limits for certain SAPs and for the two NAPs in the State differed from EPA's approach detailed in the SO<sub>2</sub> Nonattainment Guidance for the purpose of attainment planning, and it highlights the similarities, where relevant, between the two approaches. EPA did not state or suggest that Florida made use of actual modeled "critical emission values" (CEVs) to determine the new longer-term average emission limits proposed for incorporation into the SIP.

At the time of proposal, EPA had no information that there were any NAAQS issues that would require modeling a new CEV, and no new information has been provided to indicate that there would be NAAQS compliance issues around any of the facilities subject to this rulemaking. Rather, FDEP established new, source-specific emission limits and compared them to existing SIP emission limits in Rules 62–296.402 and 62–296.408. The starting point for the analysis was not a nonattainment planning situation, but instead a consideration of any potential relaxation to the SIP in replacing the existing SIP-rule emission limits with source-specific longer-term average emission limits.

As discussed in the Excess Emissions Proposal, the existing SIP emission limits proposed for removal from the SIP were only applicable to steady-state periods of operation, having functioned with an exemption for periods of SSM. With Florida's removal of exemptions for SSM in Rule 62–210.700, "Excess Emissions," in response to the 2015 SSM SIP Action, the State wanted to develop new, continuous emission limits that would apply during all periods of operation. Having been through the attainment planning process and air quality designations process for several SAPs (*i.e.*, Mosaic Fertilizer's Riverview facility, Bartow facility, and

New Wales facility), FDEP recognized that several SAPs in the State already had existing longer-term average, source-specific emission limits which were continuous and at least as stringent as the emission limits in Rule 62–296.402 (which had not been adopted for attainment planning purposes).

The State then proposed new, longer-term average emission limits for the remaining SAPs in the State, Mosaic South Pierce, Nutrien White Springs, and Tampa Electric Company (TECO) Polk, which would be based on an analysis of comparable stringency to the previously existing short-term limits using each source's continuous emissions monitoring system (CEMS) data, similar to the longer-term average emission limit approach developed in the SO<sub>2</sub> Nonattainment Guidance. For this analysis, Florida used the existing SIP rule emission limits in place of the CEV concept used in the SO<sub>2</sub> Guidance to demonstrate how much a longer-term average limit should be scaled down to compensate for the longer averaging period and maintain the same level of emission limit stringency. Similarly, the State developed longer-term average continuous emission limits for the two NAPs in the State, Ascend Pensacola, and Trademark Nitrogen, which could build off of a similar analysis based on historical CEMS data. EPA has not suggested that FDEP made use of a modeled CEV for these SAPs and NAPs. The existing 3-hour average SIP emission limits were the baseline for the longer-term average analysis. See 88 FR 29598, 29605–08.

EPA disagrees with the Commenters that the Agency did not provide enough information to assess the appropriateness of the data sets used in the analysis. The Excess Emissions Proposal and associated docket provide sufficient relevant information about the data sets Florida used to calculate the source-specific limits. The State utilized over three years of CEMS data for Mosaic South Pierce, three years of data for Nutrien White Springs SAP F, two years of data for Nutrien White Springs SAP E, and three years of data for Ascend Pensacola.<sup>9</sup> The data sets used were from the most recently available complete years and provide ample data points to perform robust analyses and to reach reliable conclusions.

EPA included the CEMS data as provided by FDEP for the Mosaic South Pierce SAPs, Nutrien White Springs

<sup>9</sup> See "Nutrien White Springs Eq Ratio 2019–2021," "Mosaic SP SO<sub>2</sub> Equivalence Ratios," and "Ascend Nitric Acid Plant Equivalency Ratio" in the docket for this rulemaking.

SAPs, and the Ascend Pensacola NAP in the rulemaking docket at the time of proposal. EPA also evaluated the analysis that FDEP performed in selecting longer-term average emission limits for these facilities. The Excess Emissions Proposal describes the use of 99th percentile 1-hour average, 3-hour average, 6-hour average, and 24-hour block average emissions, as applicable for the SAPs, and the proposed longer-term average emission limits being evaluated. Similarly, EPA describes the use of the 98th percentile 1-hour average, 3-hour average, and 720-hour rolling average emissions for the Ascend Pensacola NAP.

As discussed in the Excess Emissions Proposal, for the Nutrien White Springs and Mosaic South Pierce SAPs, FDEP evaluated the ratio of the 24-hour:3-hour average 99th percentile emissions, then also considered the ratio of 24-hour:1-hour average 99th percentile emissions. FDEP then selected a longer-term average emission limit (840 lbs/hr) in line with the most conservative (*i.e.*, lowest) equivalency ratios determined for Nutrien White Springs and considerably more stringent than the calculated equivalency ratios would have determined to be appropriate for Mosaic South Pierce. *See* 88 FR 29598,

29605–09. The ratio of the selected emission limit to the existing SIP emission limit (917 lbs/hr) is 0.916. The average of the two 24-hr:3-hr ratios determined for SAPs E (0.950) and F (0.914), would be 0.932. Therefore, the final limit across these two SAPs at Nutrien White Springs is in line with the lower end of what the 24-hr:3-hr equivalency ratios would indicate is an appropriate longer-term average emission limit and more stringent than what an equal consideration for the analysis across both SAPs would call for. Regarding Mosaic South Pierce, FDEP and Mosaic Fertilizer agreed upon an equivalency ratio of 0.750 for the source, which is lower than any of the 24-hr:3-hr or 24-hr:1-hr equivalency ratios included in the analysis of the CEMS data. *See* 88 FR 29598, 29605.

Regarding the TECO Polk SAP, with the new 6-hour average emission limit, the ratio between the selected limit and the existing SIP emission limit is in line with the lowest 6-hr:1-hr ratio from the available CEMS data for Nutrien White Springs and Mosaic South Pierce. *See* 88 FR 29598, 29610. For Ascend Pensacola, FDEP considered the ratio of the 720-hour:3-hour average 98th percentile emissions, then also considered the ratio of the 720-hour:1-

hour average 98th percentile emissions. The selected emission limit compared to the existing SIP emission limit for Ascend Pensacola and Trademark Nitrogen results in a significantly more stringent ratio (0.867) than the CEMS data analysis would lead to for the 720-hr:3-hr (0.958) and 720-hr:1-hr (0.958) ratios. *See* 88 FR 29598, 29607, 29612–13. The ultimate longer-term average emission limits for these SAPs and NAPs were compared to these existing SIP emission limits and the ratios of longer-term average emissions to shorter-term average emissions in the CEMS data to assess the comparability with the existing SIP emission limits and therefore assess the potential relaxation to the SIP. FDEP developed its new source-specific emission limits in an appropriate way to ensure that the SIP is not relaxed and that increased emissions will not occur because of the SIP revision.

As shown in the tables below, and as discussed in the Excess Emissions Proposal,<sup>10</sup> in all cases the maximum emissions theoretically allowed under the new source-specific limits are less than what is theoretically allowed under the existing SIP limits on both a short-term and a long-term (annual) basis.

Facility	Existing SIP SO <sub>2</sub> limits		New source-specific SIP SO <sub>2</sub> limits	
	Combined unit maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Combined unit maximum emissions allowed per year (tons/yr)	Combined unit maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Combined unit maximum emissions allowed per year (tons/yr)
Nutrien White Springs .....	917	4,015	<sup>i</sup> 840	3,679
Mosaic South Pierce .....	1,000	4,380	<sup>ii</sup> 750	3,285
TECO Polk .....	49.8	218.3	<sup>ii</sup> 48.0	<sup>iii</sup> 210.2

<sup>i</sup> 24-hour average.

<sup>ii</sup> 6-hour average.

<sup>iii</sup> EPA notes that Table 5 in the Excess Emissions Proposal included a typographical error, reflecting 214.6 tons/year rather than 210.2 tons/year.

Facility	Existing SIP NO <sub>x</sub> limits		New source-specific SIP NO <sub>x</sub> limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Ascend Pensacola .....	187.5	821	<sup>iv</sup> 162.6	712

<sup>10</sup> Except where noted, each figure in the tables below appeared in a table regarding the

corresponding facility in the Excess Emissions Proposal.

Facility	Existing SIP NO <sub>x</sub> limits		New source-specific SIP NO <sub>x</sub> limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Trademark Nitrogen .....	18.8	82.1	v 16.3	71.2

<sup>iv</sup> 720-hour average.  
<sup>v</sup> 30-day average.

Regarding the other impacted SAPs at Mosaic Fertilizer’s Riverview facility, Bartow facility, and New Wales facility, EPA notes in the Excess Emissions Proposal that these facilities already had longer-term average continuous emission limits that had been previously approved into the SIP to enable attainment of the 2010 SO<sub>2</sub> NAAQS.<sup>11</sup> EPA compared these approved source-specific emission limits, which in fact provided for attainment in the respective nonattainment areas, to the existing SIP emission limit at Rule 62–296.402 (which had not been relied upon to show attainment) and determined that these emission limits are at least as stringent as the limits provided in Rule 62–296.402. EPA did not reopen for comment these longer-term average limits for these facilities, as noted in the proposal, and the Commenters did not raise any issues with these facilities or their existing longer-term average source-specific emission limits with any specificity. See 88 FR 29598, 29612, 29615. The Excess Emissions Proposal refers readers to the actions in which EPA approved those source-specific emission limits for more detail on how those limits were developed. In that proposal, EPA only compares the new longer-term average limits with the existing limits at Rule 62–296.402.

EPA also reiterates that, for the NAPs, the steady-state SIP emission limit was carried forward directly into the source-specific permits being approved into the SIP. This means, as EPA described in the Excess Emissions Proposal, no effective change to the existing SIP emission limitations results from removing the Rule 62–296.408 emission limit from the SIP. Instead, the two NAPs each received two new source-specific emission limits: the first covers the steady-state modes of operation and is the same as required by the existing SIP; the second applies at all times,

including periods of SSM, and is comparably stringent to the existing SIP emission limit. Therefore, the SIP is strengthened by the changes applicable to these sources.

Regarding all SAPs, except for the TECO Polk SAP, the New Source Performance Standard (NSPS) at 40 CFR part 60, subpart H, *Standards of Performance for Sulfuric Acid Plants*, imposes the same emission limit for steady-state periods as the most stringent emission limit in Rule 62–296.402 (i.e., 4 pounds of SO<sub>2</sub> per ton of sulfuric acid produced (lb/ton)). Therefore, EPA has several reasons to believe that steady-state emissions will not increase subsequent to this revision: (1) The new, longer-term average emission limits are comparably stringent to the existing steady-state SIP-rule emission limit, (2) the longer-term average emission limits significantly reduce the total SO<sub>2</sub> emissions allowed on a short-term basis and also a long-term (annual) basis, and (3) the NSPS will still apply to Nutrien White Springs and Mosaic South Pierce.

*Comment 2:* Commenters state that longer term limits cannot guarantee protection of 1-hour standards and generally should not be used to protect short-term NAAQS. Additionally, the Commenters state that if EPA chooses to allow longer-term emission limits, it should ensure that those limits are as protective as possible to ensure that the health-based standards are maintained at all times.

*Response 2:* EPA disagrees with the Commenters’ statement that longer-term average limits should not be used to protect short-term NAAQS. As discussed in Section II.B.5. of the Excess Emissions Proposal, EPA’s 2014 SO<sub>2</sub> Nonattainment Guidance provides procedures for using a statistical analysis to determine NAAQS-protective longer-term average emission limits for sources with variable emissions. In general, EPA believes that when the statistical procedure described in the SO<sub>2</sub> Nonattainment Guidance is

applied appropriately, longer-term average limits are comparably effective in achieving attainment of a short-term NAAQS in nonattainment areas. EPA has approved the application of the longer-term averaging policy on a case-by-case basis in accordance with the concepts recommended in the SO<sub>2</sub> Nonattainment Guidance for several SO<sub>2</sub> nonattainment-area attainment SIPs and redesignation requests that require a NAAQS evaluation.<sup>12</sup> This includes attainment-SIP and redesignation-request approvals for SO<sub>2</sub> nonattainment areas in Florida. Appropriately set longer-term average limits can provide for attainment of a short-term NAAQS because they are set low enough that they are equally stringent as the respective shorter-term limits with higher thresholds.

Florida’s application of the statistical analysis procedures contained in EPA’s SO<sub>2</sub> Nonattainment Guidance for this SIP action was not for the purpose of demonstrating compliance with the short-term 1-hour SO<sub>2</sub> and NO<sub>2</sub> NAAQS. Rather, Florida’s analysis shows that replacement of the existing short-term SIP-approved limits with the new source-specific longer-term average emission limits would not allow for an increase in emissions and thereby lessen the stringency of the SIP. As a result, the control strategy needed to meet a comparably stringent longer-term emission limit would necessarily be as effective as the control strategy needed to meet the shorter-term emission limit. Moreover, the statistical procedures were used to develop source-specific longer-term average emission limits that will apply during all periods of operation and that are comparatively

<sup>12</sup> EPA analyzed and approved several SO<sub>2</sub> attainment SIPs and redesignation requests that provided modeled attainment of the 2010 short-term standard determining the suitably adjusted long term limits can be protective of the expected to 1-hour SO<sub>2</sub> standard. See, e.g., 87 FR 33095 (June 1, 2022), 85 FR 9666 (February 20, 2020), 83 FR 25922 (June 5, 2018), 84 FR 30920 (June 28, 2019), 82 FR 30749 (July 3, 2017).

<sup>11</sup> See 82 FR 30749 (July 3, 2017), 85 FR 9666 (February 20, 2020).

stringent to the existing shorter-term limits in Florida's SIP for SAPs and NAPs, which only apply during full-load operation and exclude SSM periods. While Florida's submission is neither intended nor required to demonstrate protection of 1-hour standards, such as what would be required of an attainment SIP supported by a modeling demonstration, Florida used appropriate source-specific data sets and appropriately applied statistical procedures to develop longer-term average emission limits that are comparatively stringent to the existing SIP emission limits such that the SIP revision will not result in emissions increases and consequently will not interfere with any applicable requirement of the CAA.

*Comment 3:* Commenters state that if EPA chooses to allow longer-term limits to protect short-term NAAQS, the Agency should ensure that the conversion factor used to calculate a longer-term limit is appropriately low and that the facility would violate its longer-term limit if it violated its "critical emission value."

*Response 3:* EPA believes that the procedures used by Florida to calculate the longer-term average limits for the SAPs and NAPs discussed in the May 8, 2023, Excess Emissions Proposal are appropriate and provide for comparably stringent longer-term average emission limits that apply during all periods of operation of the affected sources. The procedures used by Florida to derive the longer-term average limits are discussed and summarized in Section II.B.5. of the Excess Emissions Proposal. As shown in the example calculations provided for the Mosaic South Pierce facility and described in the Excess Emissions Proposal, Florida used an equivalency ratio of 0.75 to establish the 24-hour SO<sub>2</sub> limit for the two SAPs, which is approximately 23 percent lower than the 0.978 equivalency ratio calculated by applying the procedure of the SO<sub>2</sub> Nonattainment Guidance.<sup>13</sup> Therefore, the 24-hour SO<sub>2</sub> limits established for these SAPs are even more stringent than limits that would be derived by strictly following the procedures in the SO<sub>2</sub> Nonattainment Guidance. Likewise, the longer-term average limits for the other SAPs and NAPs subject to this rulemaking are at least as stringent as the longer-term average limits that were calculated following the procedures of the SO<sub>2</sub> Nonattainment Guidance.

As discussed in EPA's response to Comment 1, the concept of the "critical emission value" (CEV) is not applicable to the analysis Florida performed to

calculate the comparably stringent longer-term average limits that apply during all periods of operation, including SSM events. Florida used the existing 3-hour SIP limits applicable the SAPs and NAPs as the starting point for deriving comparably stringent longer-term average limits. No CEVs were calculated. To the extent the Commenters may be referring to how the longer-term average emission limits are established relative to the existing 3-hour average SIP emission limits, EPA disagrees that the limits should be set such that any exceedance of the existing 3-hour average limits would result in exceeding the longer-term average limit. The purpose of setting a longer-term average emission limit is to allow for some level of emissions variability. Prior to this action, the existing SIP emission limits did not apply during periods of SSM, and with this change, a comparably stringent emission limit will apply at all times, including those periods of SSM. EPA discussed the statistical approach that Florida employed in establishing its longer-term average emission limits which are comparable to existing SIP emission limits in the responses to Comments 1 and 2.

*Comment 4:* Commenters state that there appears to be no description in EPA's proposed rule or Florida's SIP submission regarding the removal of subparagraph 62–296.405(1)(c)3, which provides that owners of fossil fuel steam generators shall monitor their emissions and the effects of the emissions on ambient concentrations of SO<sub>2</sub>, in a manner, frequency, and locations approved and deemed reasonably necessary and ordered by the Department. Commenters question why EPA has not included any analysis on how removing this provision would not interfere with attainment, reasonable further progress, or any other applicable requirement under section 110(l) of the Act.

*Response 4:* EPA's May 8, 2023, Excess Emissions Proposal (88 FR 29598), which addresses Florida's November 22, 2016, and September 30, 2022, SIP revisions, did not discuss the removal of subparagraph 62–296.405(1)(c)3 because the Excess Emissions Proposal did not propose to remove it from the SIP. See 88 FR at 29602 and 29603, n.15. Instead, EPA proposed to remove subparagraph 62–296.405(1)(c)3 from the SIP in a different and separate notice of proposed rulemaking also published on May 8, 2023—the Emission Standards Proposal (88 FR 29591). In that notice, EPA explained the rationale for removal and proposed to find that the changes to

Rule 62–296.405 would not interfere with any requirement concerning attainment and RFP, or any other applicable requirement of the CAA. See 88 FR 29591, 29593–94. EPA did not receive any comments on the Emission Standards Proposal and is finalizing action on both the Emission Standards Proposal and the Excess Emissions Proposal in this final rulemaking.

As EPA explained in the Emission Standards Proposal, EPA proposed to remove subparagraph (1)(c)3 from the SIP because, as FDEP notes in its April 1, 2022, SIP revision, the monitoring of stack emissions is regulated by SIP-approved Chapter 62–297, F.A.C., Stationary Sources—Emissions Monitoring, and subparagraph (1)(c)3 is a discretionary ambient SO<sub>2</sub> monitoring provision that is no longer needed in the SIP. *Id.* FDEP explains that the State has the authority and capability of setting up ambient air quality monitoring stations as needed. In addition, Rule 62–212.400(7) requires that the owner or operator of a major stationary source or major modification under the PSD program provide any required monitoring and analysis as required in 40 CFR 52.21(m). Florida operates an approved plan for monitoring compliance with the SO<sub>2</sub> NAAQS and may require owners of fossil fuel steam generators to conduct ambient monitoring as needed when constructing or modifying emissions units.

*Comment 5:* Commenters speculate that specific plants are being removed from Rule 62–296.405, "Fossil Fuel Steam Generators with More than 250 Million Btu Per Hour Heat Input," because they no longer exist or are no longer permitted to operate. Commenters ask EPA to clarify why the plants are being removed.

*Response 5:* Similar to the response to Comment 4, EPA's May 8, 2023, Excess Emissions Proposal did not discuss the removal of SO<sub>2</sub> and NO<sub>x</sub> standards for certain units from Rule 62–296.405 because the Excess Emissions Proposal did not propose to remove them from the SIP. Instead, EPA proposed to remove the standards for certain units from Rule 62–296.405 in the Emissions Standards Proposal and explained the rationale for such removal in that notice. EPA did not receive any comments on the Emission Standards Proposal and is finalizing action on both the Emission Standards Proposal and the Excess Emissions Proposal in this final rulemaking.

As EPA explained in the Emission Standards Proposal, EPA proposed to remove certain units from Rule 62–296.405 because Florida requested the

<sup>13</sup> See *supra* note 9.

removal of SO<sub>2</sub> and NO<sub>x</sub> standards from Rule 62–296.405 for units that have permanently shut down<sup>14</sup> or have more stringent federally enforceable limits in the SIP. See 88 FR 29591, 29593–94.

*Comment 6:* A separate commenter expresses support for EPA's Excess Emissions Proposal and urges EPA to approve Florida's SIP revisions "and reinstate or issue new SIP calls for other states or local jurisdictions that have not yet revised their SSM provisions . . . ." The commenter mentions that "this will ensure a level playing field for all regulated facilities and promote environmental justice for all communities."

*Response 6:* EPA acknowledges the commenter's support for finalizing the Excess Emissions Proposal. To the extent that the comment refers to SIP calls for other states or local jurisdictions, the comment is outside the scope of this rulemaking, which addresses the 2015 SSM SIP Action with respect to Florida only.

### III. Final Actions

EPA is approving Florida's November 22, 2016, SIP revision (Excess Emissions Rule SIP Revision) consisting of revisions to Rule Section 62–210.700, "Excess Emissions." The revisions include the deletion of Rule 62–210.700(4), with the addition of equivalent language to Rules 62–210.700(1) and (2); amendment of Rule 62–210.700(3), to clarify and restate the visible emissions and PM limits applicable during boiler cleaning (soot blowing) and load changes; addition of Rule 62–210.700(6), which states that Rules 62–210.700(1) and (2) shall not apply after May 22, 2018, to either emission limits or unit-specific emission limits that have been incorporated into Florida's SIP; and addition of Rule 62–210.700(7), which states that after October 23, 2016, Rules 62–210.700(1) and (2), shall not apply to new permit-specific emission limits established pursuant to Florida's PSD and NNSR regulations (Rules 62–212.400 and 62–210.500). EPA has determined that Florida's Excess Emissions Rule SIP Revision is consistent with CAA requirements and adequately addresses the specific deficiencies that EPA identified in the 2015 SSM SIP Action with respect to the Florida SIP.

<sup>14</sup> As explained in the Emission Standards Proposal, on March 30, 2023, Florida withdrew its request to remove 62–296.405(1)(c)1.g and (1)(d)2., which include SO<sub>2</sub> and NO<sub>x</sub> limits, respectively, for Florida Power and Light's Manatee plant, which has not shut down. EPA accordingly did not propose to approve the removal of these subparagraphs.

Additionally, EPA is approving Florida's SIP revisions consisting of SSM-related and other changes to Rule 62–296.405, "Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input,"<sup>15</sup> and Rule 62–296.570, "Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO<sub>x</sub>-Emitting Facilities"; removal of the sulfur dioxide emission limit in Rule 62–296.402, "Sulfuric Acid Plants"; and removal of the nitrogen oxides emission limit in Rule 62–296.408, "Nitric Acid Plants." Further, EPA is approving into Florida's SIP source-specific SO<sub>2</sub> and NO<sub>x</sub> emission limits and construction permit conditions for five SO<sub>2</sub> emissions units and two NO<sub>x</sub> emissions units. EPA finds that Florida's April 1, 2022, SIP revision and the September 30, 2022, Supplemental SSM SIP Revision are consistent with CAA requirements and adequately address the additional regulations identified by the State as problematic.

### IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I through III of this preamble, EPA is finalizing the incorporation by reference of Florida Rule 62–210.700, "Excess Emissions," state effective October 23, 2016, which set a schedule by which the exemptions from applicable emission limits for startups, shutdowns, and malfunctions will be removed. EPA is also finalizing the incorporation by reference of the following Florida Rules: 62–296.402, "Sulfuric Acid Plants," removing specific emission limits from the Florida SIP, state effective June 23, 2022, except for 62–296.402(1), 62–296.402(2)(a)2., 62–296.402(2)(b)2., and 62–296.402(3)(b); 62–296.405, "Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input," revising monitoring requirements and clarifying

<sup>15</sup> The September 30, 2022, SIP revision includes the following typographical errors: (1) In paragraph 62–296.405(6)(b) as shown on page 33 of 126 in the submittal, one sentence ("In lieu of EPA Method 17, 5, 5B, or 5F . . .") appears in two places. The amendments to the State effective version of Rule 62–296.405, which start at page 73 of 126, show the revised text correctly at page 75 of 126 in the SIP submittal. (2) In paragraph 62–296.405(7)(a)4. as shown on page 35 of 126, two rule cross-references are not shown as revised. The amendments to the State effective version of Rule 62–296.405 show the revised cross-references correctly at page 77 of 126. (3) In paragraph 62–296.405(7)(b) as shown on page 35 of 126, a rule cross-reference is not shown as revised. The amendments to the State effective version of the rule show the revised cross-reference correctly at page 77 of 126.

applicability, state effective June 23, 2022, except for 62–296.405(4)(a)2. through 5., 62–296.405(4)(a)8. and 9., 62–296.405(4)(b)1. and 2., 62–296.405(4)(b)4., and 62–296.405(5)(c).; 62–296.408, "Nitric Acid Plants," removing specific emission limits, state effective November 23, 1994, except for 62–296.408(2); and 62–296.570, "Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO<sub>x</sub>-Emitting Facilities," removing an exemption from RACT requirements during startups, shutdowns, and malfunctions, state effective June 23, 2022. Additionally, EPA is finalizing the incorporation by reference of the specified new operating parameters, SO<sub>2</sub> emission caps, and compliance monitoring, recordkeeping, and reporting requirements for emission units EU 066 (SAP E) and EU 067 (SAP F) at Nutrien White Springs (Permit No. 0470002–132–AC),<sup>16</sup> state effective January 1, 2023; EU 004 (SAP 10) and EU 005 (SAP 11) at Mosaic South Pierce (Permit No. 1050055–037–AC),<sup>17</sup> state effective April 1, 2023; and EU 004 at TECO-Polk (Permit No. 1050233–050–AC),<sup>18</sup> state effective January 1, 2023. The SO<sub>2</sub> emission standards specified in each permit are the basis for the removal of other SO<sub>2</sub> emission limits from the SIP. Finally, EPA is finalizing the incorporation by reference of the specified new operating parameters, NO<sub>x</sub> emission caps, and compliance monitoring, recordkeeping, and reporting requirements for emission units EU 042 at Ascend Pensacola (Permit No. 0330040–076–AC),<sup>19</sup> state effective January 1, 2023; and EU 001 at Trademark Nitrogen (Permit No. 0570025–016–AC),<sup>20</sup> state effective

<sup>16</sup> Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 3 through 6 from Permit No. 0470002–132–AC issued to White Springs Agricultural Chemicals, Inc., Suwanee River/Swift Creek Complex by FDEP on September 22, 2022. State effective January 1, 2023.

<sup>17</sup> Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 4 through 7 from Permit No. 1050055–037–AC issued to Mosaic Fertilizer, LLC, South Pierce Facility by FDEP on September 22, 2022. State effective April 1, 2023.

<sup>18</sup> Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 through 4 from Permit No. 1050233–050–AC issued to Tampa Electric Company Polk Power Station by FDEP on September 21, 2022. State effective January 1, 2023.

<sup>19</sup> Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 through 6 from Permit No. 0330040–076–AC issued to Ascend Performance Materials Operations LLC Pensacola Plant by FDEP on September 20, 2022. State effective January 1, 2023. EPA notes that the condition numbers are misidentified on pages 43–44 of the Supplemental SSM SIP Revision as 1 and 5 through 9; in the permit, those conditions are numbered 1 through 6, as shown on pages 98–99 of the Supplemental SSM SIP Revision.

<sup>20</sup> Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 and 5

January 1, 2023. The NO<sub>x</sub> emission standards specified in each permit are the basis for the removal of other NO<sub>x</sub> emission limits from the SIP. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>21</sup>

#### 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. See 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. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, 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, these actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The FDEP did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in these actions. Due to the nature of the actions being taken here, these actions are expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of these actions, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

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 these actions 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**. These actions are 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 these actions must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions 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. These actions may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

#### List of Subjects in 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.

Dated: July 24, 2023.

**Jeananne Gettle,**

*Acting Regional Administrator, Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

#### 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 K—Florida

- 2. In § 52.520:
  - a. Amend the table in paragraph (c) by:
    - 1. Under the heading “Chapter 62–210 Stationary Sources—General Requirements,” revising the entry “62–210.700”,

through 9 from Permit No. 0570025–016–AC issued to Trademark Nitrogen, Inc., by FDEP on September 20, 2022, State effective January 1, 2023.

<sup>21</sup> See 62 FR 27968 (May 22, 1997).

■ 2. Under the heading “Chapter 62–296 Stationary Sources—Emission Standards,” revising entries “62–296.402”, “62–296.405”, “62–296.408”, and “62–296.570”;  
 ■ b. Amend the table in paragraph (d), by adding entries “Nutrien White

Springs”; “Mosaic Fertilizer LLC—South Pierce Facility”; “Tampa Electric Company (TECO)—Polk Power Station”, Ascend Pensacola”, and “Trademark Nitrogen” at the end of the table.  
 The revisions and additions read as follows:

§ 52.520 identification of plan.  
 \* \* \* \* \*  
 (c) \* \* \*

EPA-APPROVED FLORIDA LAWS AND REGULATIONS

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 62–210 Stationary Sources—General Requirements</b>				
*	*	*	*	*
62–210.700 .....	Excess Emissions .....	10/23/2016	8/4/2023, [Insert citation of publication].	
*	*	*	*	*
<b>Chapter 62–296 Stationary Sources—Emission Standards</b>				
*	*	*	*	*
62–296.402 .....	Sulfuric Acid Plants .....	6/23/2022	8/4/2023, [Insert citation of publication].	Except for paragraphs (1), (2)(a)2., (2)(b)2., and (3)(b).
*	*	*	*	*
62–296.405 .....	Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input.	6/23/2022	8/4/2023, [Insert citation of publication].	Except for paragraphs (4)(a)2. through 5., (4)(a)8. and 9., (4)(b)1. and 2., (4)(b)4., and (5)(c).
*	*	*	*	*
62–296.408 .....	Nitric Acid Plants .....	11/23/1994	8/4/2023, [Insert citation of publication].	Except for paragraph (2).
*	*	*	*	*
62–296.570 .....	Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO <sub>x</sub> -Emitting Facilities.	6/23/2022	8/4/2023, [Insert citation of publication].	
*	*	*	*	*

(d) \* \* \*

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
Nutrien White Springs .....	0470002–132–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 3 through 6 at EU 066 (SAP E) and EU 067 (SAP F).
Mosaic Fertilizer, LLC—South Pierce Facility.	1050055–037–AC.	4/1/2023	8/4/2023, [Insert citation of publication].	Conditions 4 through 7 at EU 004 (SAP 10) and EU 005 (SAP 11).
Tampa Electric Company (TECO)—Polk Power Station.	1050233–050–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 through 4 at EU 004.
Ascend Pensacola .....	0330040–076–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 through 6 at EU 042.
Trademark Nitrogen .....	0570025–016–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 and 5 through 9 at EU 001.

\* \* \* \* \*

[FR Doc. 2023-15964 Filed 8-3-23; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R07-OAR-2023-0197; FRL-10826-02-R7]

**Air Plan Approval; State of Missouri; Construction Permits by Rule****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Missouri State Implementation Plan (SIP) received on August 4, 2022. The submission removes a provision in the Missouri regulation “Construction Permits By Rule” that allows the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceuticals in crematories and animal incinerators because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. By removing the conflicting language, approval of these revisions ensures consistency between State and federally approved rules. These revisions along with other minor text changes are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA’s approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on September 5, 2023.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2023-0197. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. 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 through [www.regulations.gov](http://www.regulations.gov) or please contact the person identified in the **FOR FURTHER INFORMATION**

**CONTACT** section for additional information.**FOR FURTHER INFORMATION CONTACT:**

Steven Brown, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7718; email address: [brown.steven@epa.gov](mailto:brown.steven@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” refer to EPA.

**Table of Contents**

- I. What is being addressed in this document?
- II. Have the requirements for approval of a SIP revision been met?
- III. What action is the EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. What is being addressed in this document?**

The EPA is approving a SIP revision submitted by the State of Missouri on August 4, 2022. Missouri requested the EPA to approve revisions to 10 Code of State Regulations (CSR) 10-6.062 in the Missouri SIP. The state has revised the rule to remove a provision in the Missouri regulation, “Construction Permits By Rule” that allowed the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, and in a final rulemaking, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceutical drugs because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. After review and analysis of the revisions, the EPA concluded that these changes do not have adverse effects on air quality. The full text of these changes can be found in the State’s submission, which is included in the docket for this action. The EPA’s analysis of the revisions can be found in the technical support document (TSD), also included in the docket.

**II. Have the requirements for approval of a SIP revision been met?**

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from 12/01/2021 to 2/03/2022 and received no comments. The EPA’s Notice of Proposed Rulemaking (NPRM) and supporting information contained in the docket were made available for public

comment from May 22, 2023, to June 21, 2023 (88 FR 32715).

The EPA received one comment. The commenter did not support the incineration of illegal and waste pharmaceuticals because of the potential negative human health and environmental impacts. The state removed the language in the rule allowing the incineration of illegal and waste pharmaceuticals. Therefore, the rule is consistent with federal regulations and EPA is able to approve this revision. The comment is included in the docket.

In addition, as explained above and in more detail in the TSD, which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

**III. What action is the EPA taking?**

The EPA is taking final action to amend the Missouri SIP by approving the State’s revisions to rule 10-6.062 “Construction Permits By Rule.” Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM (88 FR 32715), and the TSD, the EPA has determined that these changes meet the requirements of the Clean Air Act and will not adversely impact air quality or the stringency of the SIP.

**IV. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10-6.062, state effective date July 30, 2022, which regulates the process by which sources can be exempt from 10 CSR 10-6.060 Construction Permits Required. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

<sup>1</sup> 62 FR 27968, May 22, 1997.