

The EPA Administrator, Lisa P. Jackson, signed the following notice on 02/25/2011, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://fdsys.gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket Nos. EPA-HQ-OAR-2009-0517. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-HQ-OAR-2009-0517; FRL-9275-7]**

**Updating Cross-References for the Oklahoma State  
Implementation Plan**

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

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** In this rule, EPA is making a minor correction to the final rule titled, "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans" to correct the regulatory text related to Oklahoma's State Implementation Plan (SIP). Region 6 approved revisions to the Oklahoma SIP that recodified the regulations. This approved recodification took effect on December 27, 2010. This rule updates cross-references in the regulatory text in light of this recodification.

**EFFECTIVE DATE:** These correcting amendments are effective on  
**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

This document is a prepublication version, signed by EPA Administrator, Lisa P. Jackson on 02/25/2011. We have taken steps to ensure the accuracy of this version, but it is not the official version.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2009-0517. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Michael S. Brooks, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C504-05, Research Triangle Park, NC 27711; telephone number (919) 541-3539, e-mail address: [brooks.michaels@epa.gov](mailto:brooks.michaels@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This document is a prepublication version, signed by EPA Administrator, Lisa P. Jackson on 02/25/2011. We have taken steps to ensure the accuracy of this version, but it is not the official version.

On December 30, 2010, EPA published a final rule titled, "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans" (SIP Narrowing Rule) (75 FR 82536). This rule was signed on December 23, 2010. This final rule narrowed EPA's previous approval of SIP Prevention of Significant Deterioration (PSD) programs in 24 states that apply to GHG-emitting sources. Specifically, in that rule EPA withdrew its previous approval of those programs to the extent they applied PSD to GHG-emitting sources below the thresholds in the final Tailoring Rule, which EPA promulgated by Federal Register notice dated June 3, 2010.

For a detailed description of the rule titled, "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans," please see the rulemaking action which is available in the Federal Register at (75 FR 82536).

## **II. Why are the corrections needed?**

In the SIP Narrowing Rule, EPA amended its approval of Oklahoma's SIP in 40 CFR 52.1929 by adding provision 40 CFR 52.1929(c), in which it cross-referenced specific provisions of Oklahoma's approved state PSD program.

Separately, EPA Region 6 approved revisions to the Oklahoma SIP that recodified the regulations, including the provisions that were cross-referenced by the aforementioned SIP Narrowing Rule. This approved recodification took effect on December 27, 2010, in between the dates the SIP Narrowing Rule was signed and published. As a result, the regulatory text within the SIP Narrowing Rule related to the Oklahoma SIP is no longer accurate as the SIP provisions listed in the SIP Narrowing Rule no longer cross-reference to the portions of the state PSD program. Therefore, EPA is correcting this error.

### **III. What is the rulemaking procedure?**

The EPA is issuing this final rule without prior proposal or the opportunity for public comment because EPA finds that it is unnecessary and not in the public interest to provide such notice and opportunity for comment. Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to public interest, the Agency may issue a rule without providing notice and an opportunity to comment. Section 307(d)(1) of the Clean Air Act (CAA), among other things, further provides that CAA subsection 307(d) does not apply when EPA has made a good cause

finding pursuant to subparagraph (B) of APA subsection 553(b). (See 42 U.S.C. 7607(d)(1).) In this rule, EPA finds that it is unnecessary and would serve no useful purpose for EPA to provide an opportunity for public comment because the changes merely correct minor, inadvertent, and nonsubstantive errors. As explained above, the correction to 40 CFR section 52.1929(c)(4)(iii) corrects minor, inadvertent errors in the regulatory text. For these reasons, EPA finds pursuant to APA section 553 that good cause exists to promulgate this final rule without publishing notice of a proposed rule or providing an opportunity for public comment.

Section 553(d)(3) also allows an agency, upon a finding of good cause, to make a rule effective immediately. Because this action corrects minor, inadvertent errors and helps to clarify requirements in the underlying rules, EPA finds good cause exists to make these corrections effective immediately.

#### **IV. Statutory and Executive Order Reviews**

This action only corrects minor, inadvertent and nonsubstantive errors. For that reason, this rule: is not subject to review by the Office of Management and Budget under Executive Order 12866 Regulatory Planning and Review (58 FR 51735, October 4, 1993); is not a "major rule" as defined by 5

U.S.C. 804(2); and does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Because EPA found that for this action it is unnecessary to issue a proposed rule and invite public comment, this action is also not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The corrections do not have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, Federalism (64 FR 43255; August 10, 1999).

This action also does not significantly or uniquely affect the communities of Tribal governments, as specified in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). The corrections also are not subject to Executive Order 13045, Protection of

Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because this action is not economically significant.

The corrections are not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because this action is not a significant regulatory action under Executive Order 12866.

The corrections do not involve changes to technical standards related to test methods or monitoring methods; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The corrections also do not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 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. The EPA will submit a report containing this final action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of this action in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The EPA's compliance with the above statutes and Executive Orders for the underlying rules is discussed in section VII of the rule titled, "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans" at 75 FR 82549.

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

Administrative practice and procedure, Air pollution control, Carbon dioxide, Carbon dioxide equivalents, Environmental protection, Greenhouse gases, Hydrofluorocarbons, Intergovernmental relations, Methane, Nitrous oxide, Perfluorocarbons, Reporting and recordkeeping requirements, Sulfur hexafluoride.

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Dated: February 24, 2011.

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Lisa P. Jackson,  
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

**PART 52—[AMENDED]**

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

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

**Subpart LL—Oklahoma**

2. Section 52.1929 is amended by revising paragraph (c)(4)(iii) to read as follows:

**§ 52.1929 Significant deterioration of air quality.**

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(iii) the term emissions increase shall mean that both a significant emissions increase (as calculated using the EPA-approved procedures in Oklahoma Air Pollution Control Regulation Title 252, Chapter 100, Subchapter 8, Part 7) and a significant net emissions increase (as defined in the EPA-approved Oklahoma Air Pollution Control Regulation 252:100-8-31 , definitions for "net emissions increase" and "significant" occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO<sub>2</sub>e, and shall be calculated assuming the pollutant GHGs is a

regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO<sub>2</sub>e instead of applying the value in 252:100-8-31 of the EPA-approved definition for "significant" of Oklahoma's Air Pollution Control Regulations.