

“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action removes unnecessary language contained in 40 CFR 52.53 related to Alabama’s SIP, and imposes no new requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule removes unnecessary language contained in 40 CFR 52.53 related to Alabama’s SIP, and does not impose any new enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the States, 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 (64 FR 43255, August 10, 1999). This rule removes unnecessary language contained in 40 CFR 52.53 related to Alabama’s SIP, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a

rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

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

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

Dated: January 20, 2011.

#### A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart B—Alabama

■ 2. Section 52.53 is revised to read as follows:

#### § 52.53 Approval Status.

With the exceptions set forth in this subpart, the Administrator approves Alabama’s plans for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT

requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

[FR Doc. 2011–1931 Filed 1–28–11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2010–0811–201101, FRL–9259–7]

### Removal of Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting Sources in State Implementation Plans; Mississippi

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending its regulations to remove language which narrowed its previous approval of Mississippi’s New Source Review (NSR) Prevention of Significant Deterioration (PSD) program regarding emission thresholds for determining which new stationary sources and modification projects become subject to Mississippi’s PSD permitting requirements for their greenhouse gas (GHG) emissions. On December 9, 2010, the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), provided a revision to its State Implementation Plan (SIP) to establish appropriate thresholds for determining which new stationary sources and modification projects become subject to permitting requirements for GHG emissions in Mississippi. EPA has taken final action to approve Mississippi’s December 9, 2010, SIP revision, and this makes EPA’s narrowing of its previous approval of Mississippi’s PSD program as it relates to GHG permitting thresholds unnecessary. Today’s action removes the regulatory language related to the narrowing action that is no longer applicable to Mississippi as a result of EPA’s approval of Mississippi’s December 9, 2010, SIP revision. Because this action is ministerial, EPA is applying the “good cause” exemption from public notice and comment requirements under the Administrative Procedure Act (APA).

**DATES:** This action is effective January 31, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket

Identification No. EPA-R04-OAR-2010-0811. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. What is today's action?
- II. When is today's action effective?
- III. Statutory and Executive Order Reviews

#### I. What is today's action?

On December 30, 2010, EPA published a final rule entitled "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans." See 75 FR 82536 (Narrowing Rule). This action narrowed EPA's previous approval of PSD programs as applicable to GHG-emitting sources in SIPs in 24 States, including Mississippi. Specifically, in the Narrowing Rule, EPA withdrew its previous approval of those programs to the extent they apply PSD to GHG-emitting sources below the thresholds in EPA's Tailoring Rule (75 FR 31514). Having narrowed its prior approval, EPA asked that each affected State withdraw from EPA consideration the part of its SIP that was no longer approved, and stated that approval of a SIP revision incorporating the Tailoring

Rule thresholds into a SIP would count as removing these no-longer-approved provisions.

On December 9, 2010, the State of Mississippi, through MDEQ, provided a revision to its SIP to incorporate changes to Mississippi's air quality regulations, APC-S-5—*Regulations for Prevention of Significant Deterioration of Air Quality*, to establish appropriate emission thresholds, consistent with EPA's Tailoring Rule, for determining which new stationary sources and modification projects become subject to Mississippi's PSD permitting requirements for their GHG emissions. On December 29, 2010, EPA approved Mississippi's December 9, 2010, SIP revision, effective January 2, 2011. See 75 FR 81858. As a result of EPA's approval of Mississippi's changes to its air quality regulations to incorporate the appropriate thresholds for GHG permitting applicability into Mississippi's SIP, paragraph (b) in Section 52.1272 of 40 CFR part 52, as included in EPA's Narrowing Rule—which applies the Narrowing Rule to Mississippi's SIP—is no longer necessary. The current action removes the approval narrowing language relating to Mississippi's SIP from the CFR to reflect that, to the extent the Narrowing Rule withdrew EPA approval from any provisions in the Mississippi SIP, those provisions have been removed from the SIP and thus the narrowing language in 40 CFR 52.1272(b) now serves no purpose. EPA is publishing this rulemaking to amend Section 52.1272 of 40 CFR part 52 to remove this unnecessary regulatory language.

#### II. When is today's action effective?

This action removes content from the CFR that now serves no purpose because EPA has approved Mississippi's SIP revision to establish thresholds for GHG permitting applicability consistent with EPA's Tailoring Rule. This is a ministerial but necessary action on the part of EPA. EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the APA. That provision authorizes agencies, upon finding "good cause," to dispense with public notice and participation where they are impracticable, unnecessary, or contrary to the public interest. EPA finds that it is unnecessary to provide public notice prior to finalizing this action, or to provide an opportunity for public comment on this action, because this action does not establish any new regulatory requirements, but instead merely removes language contained in

40 CFR 52.53 that no longer serves any purpose.

EPA also finds that there is good cause under APA section 553(d)(3) for this action to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely removes language contained in 40 CFR 52.1272 that no longer serves any purpose. For this reason, EPA finds good cause under APA section 553(d)(3) for this action to become effective on the date of publication.

#### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and imposes no new requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and does not impose any new enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism

implications because it does not have substantial direct effects on the States, 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 (64 FR 43255, August 10, 1999). This rule removes unnecessary language contained in 40 CFR 52.1272 related to Mississippi's SIP, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of

judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

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

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

Dated: January 20, 2011.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart Z—Mississippi**

■ 2. Section 52.1272 is revised to read as follows:

**§ 52.1272 Approval status.**

With the exceptions set forth in this subpart, the Administrator approves Mississippi's plan for the attainment and maintenance of national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977.

[FR Doc. 2011-1928 Filed 1-28-11; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2010-0596; FRL-9249-2]**

**Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 2, 2010 and concern oxides of nitrogen (NO<sub>x</sub>) from boilers, steam generators and process heaters with a rated heat input from 0.75 to less than 2.0 MMBtu/hr. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on March 2, 2011.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2010-0596 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Idalia Perez, EPA Region IX, (415) 942-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

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

**Table of Contents**

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
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**I. Proposed Action**

On August 2, 2010 (75 FR 45080), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD .....	4308	Boilers, Steam Generators and Process Heaters—0.075 MMBtu/hr to less than 2.0 MMBtu/hr.	12/17/09	05/17/10

We proposed to approve this rule because we determined that it complied

with the relevant CAA requirements. Our proposed action contains more

information on the rule and our evaluation.