

EPA-APPROVED NEW MEXICO REGULATIONS

| State citation | Title/subject                                    | State approval/submittal date | EPA approval date                            | Explanation |
|----------------|--|-------------------------------|--|-------------|
| Part 74        | Permits—Prevention of Significant Deterioration. | 8/31/2009                     | 11/26/2010 [Insert citation of publication]. |             |

(e) \* \* \*

EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

| Name of SIP provision  | Applicable geographic or non-attainment area | State submittal/effective date | EPA approval date                            | Explanation   |
|--|--|--------------------------------|--|---|
| Interstate transport for the 1997 ozone and PM <sub>2.5</sub> NAAQS. | New Mexico                                   | 9/17/2007                      | 6/10/2010                                    | Revisions to prohibit significant contribution to nonattainment in any other state. Approval for revisions to prohibit interference with maintenance and PSD measures in any other state. |
| Interstate transport for the 1997 ozone and PM <sub>2.5</sub> NAAQS. | New Mexico                                   | 9/17/2007                      | 11/26/2010 [Insert citation of publication]. | Revisions to prohibit interference with maintenance and PSD measures in any other state.  |

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2007-0314; FRL-9230-2]

**Approval and Promulgation of Implementation Plans; Oklahoma; State Implementation Plan Revisions for Interstate Transport of Pollution, Prevention of Significant Deterioration, Nonattainment New Source Review, Source Registration and Emissions Reporting and Rules of Practice and Procedure**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving part of a State Implementation Plan (SIP) revision submitted by the State of Oklahoma that demonstrates that adequate provisions are in place to prohibit Oklahoma air emissions from interfering with Prevention of Significant Deterioration (PSD) measures required in the SIP of any other state for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) and the 1997 fine particulate matter (PM<sub>2.5</sub>) NAAQS. Specifically,

EPA is approving the Oklahoma Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i)(II) that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other state under part C of the CAA to prevent “significant deterioration of air quality.” EPA is also approving portions of revisions to the Oklahoma SIP submitted on February 14, 2002, and June 24, 2010. The February 14, 2002, revisions we are approving relate to PSD and Nonattainment New Source Review (NNSR) for major sources, source registration and emissions reporting and other rules of practice and procedure (except for revisions relating to minor sources). The June 24, 2010, revisions we are approving include nitrogen oxides (NO<sub>x</sub>) as an ozone precursor in Oklahoma’s PSD SIP for purposes of the 1997 8-hour ozone NAAQS. This action is being taken under section 110 and parts C and D of the Clean Air Act (CAA).

**DATES:** This final rule is effective on December 27, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2007-0314. All documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov). 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, 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 Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6645; fax number (214) 665-

7263; e-mail address [young.carl@epa.gov](mailto:young.carl@epa.gov). For further information regarding PSD or NNSR, contact: Rick Barrett or Dinesh Senghani, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7227 or (214) 665-7221; fax number (214) 665-7263; e-mail address [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov) or [senghani.dinesh@epa.gov](mailto:senghani.dinesh@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

#### Outline

##### I. Final Action

A. Oklahoma Demonstration of Adequate Provisions Prohibiting Emissions That Interfere With Prevention of Significant Deterioration Measures in Other States

B. Oklahoma SIP Revisions Submitted on February 14, 2002 and June 24, 2010

##### II. What is the background for this action?

III. What comments did EPA receive and how has EPA responded to them?

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

#### I. Final Action

##### A. Oklahoma Demonstration of Adequate Provisions Prohibiting Emissions That Interfere With Prevention of Significant Deterioration Measures in Other States

We are approving a submission from the State of Oklahoma demonstrating that the State has adequately addressed one of the required elements of CAA section 110(a)(2)(D)(i), the element that requires that the State Implementation Plan prohibit air pollutant emissions from sources within a state from interfering with measures required to prevent significant deterioration of air quality in any other state. We have determined that emissions from sources in Oklahoma do not interfere with measures to prevent significant deterioration of air quality in any other state for the 1997 8-hour ozone NAAQS or of the 1997 PM<sub>2.5</sub> NAAQS (CAA section 110(a)(2)(D)(i)(II)).

##### B. Oklahoma SIP Revisions Submitted on February 14, 2002 and June 24, 2010

We are also approving portions of revisions to the Oklahoma SIP submitted by the State on February 14, 2002, and June 24, 2010. The February 14, 2002, revisions we are approving are the portions related to: (1) PSD for major stationary sources and major modifications; (2) NNSR permitting requirements for major stationary sources and major modifications as a revision to the Oklahoma NNSR SIP; (3) source registration and emissions

reporting as part of the Oklahoma Major NSR SIP; and (4) other rules of practice and procedure as part of the Oklahoma Major NSR SIP.<sup>1</sup> The June 24, 2010, revisions we are approving address NO<sub>x</sub> as an ozone precursor in Oklahoma’s PSD SIP for purposes of the 1997 8-hour ozone NAAQS.

In this action, we are not addressing the elements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS, that pertain to prohibiting air pollutant emissions from within Oklahoma from: (1) Significantly contributing to nonattainment in any other state, (2) interfering with maintenance of the relevant NAAQS in any other state, and (3) interfering with measures required to protect visibility in any other state. We are also not addressing: (1) SIP revisions submitted on February 14, 2002, for Minor NSR SIP purposes, and (2) other SIP revisions submitted on June 24, 2010, that do not address NO<sub>x</sub> as an ozone precursor.

More information on the SIP revisions we are approving can be found in our proposal published in the September 17, 2010 *Federal Register* (75 FR 56923). We are approving the SIP revisions pursuant to section 110 and parts C and D of the CAA.

#### II. What is the background for this action?

The background for today’s actions is discussed in detail in our September 17, 2010, proposal to approve revisions to the Oklahoma SIP (75 FR 56923). In it, we proposed to approve revisions to the Oklahoma SIP related to: (1) Oklahoma’s demonstration that adequate provisions are in place to prohibit Oklahoma air emissions from adversely affecting another state’s PSD measures through interstate transport for the 1997 8-hour ozone NAAQS or standards and the 1997 PM<sub>2.5</sub> NAAQS, and (2) Oklahoma Administrative Code (OAC) revisions submitted on February 14, 2002, and June 24, 2010.

#### III. What comments did EPA receive and how has EPA responded to them?

We received comment letters from WildEarth Guardians and the Sierra Club on our proposed rulemaking. The comment letters are available for review in the electronic docket for this rulemaking at the [regulations.gov](http://regulations.gov) Web site (Docket No. EPA-R06-OAR-2007-0314). Our responses to the comments are below.

<sup>1</sup> Because we are only acting on the revisions for major sources, the previously approved SIP for minor sources remains in effect.

*Comment:* One commenter provided comments on air quality models to be used to analyze and assess ozone and PM<sub>2.5</sub> impacts in the Oklahoma PSD program. The commenter stated that the CAA requires PSD regulations that specify with reasonable particularity each air quality model or models to be used under specified sets of conditions.<sup>2</sup> The commenter continued that EPA promulgated the PSD regulations in 1980, which included specific regulations to satisfy the requirements of the CAA. These PSD regulations included a requirement that a major source or major modification of a major source of air pollution cannot be constructed unless the owner or operator of such facility demonstrates, as required pursuant to section 42 U.S.C. 7410(j), that emissions from construction or operation of such facility will not cause, or contribute to, air pollution in excess of any (A) maximum allowable increase or maximum allowable concentration for any pollutant in any area to which this part applies more than one time per year, (B) national ambient air quality standard in any air quality control region. The commenter indicated that EPA promulgated 40 CFR 52.21(k) & (l)(2008) to carry out the obligations of 42 U.S.C. 7475(e)(3)(D) and EPA incorporated by reference its Guideline on Air Quality Models as Appendix W into its permitting regulations.<sup>3,4</sup> The commenter concluded that EPA’s

<sup>2</sup> Commenter cited 42 U.S.C. 7475(a)(3), 42 U.S.C. 7475(e)(3).

<sup>3</sup> Appendix W is 40 CFR part 51, Appendix W—Guideline on Air Quality Models.

<sup>4</sup> Commenter cited 43 FR 26380, 26398 (June 19, 1978). “(k) Source impact analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of: (1) Any national ambient air quality standard in any air quality control region; or (2) Any applicable maximum allowable increase over the baseline concentration [a.k.a. increment] in any area.” And “(l) Air quality models. (1) All estimates of ambient concentrations required under this paragraph shall be based on applicable air quality models, data bases, and other requirements specified in appendix W of part 51 of this chapter (Guideline on Air Quality Models). (2) Where an air quality model specified in appendix W of part 51 of this chapter (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with paragraph (q) of this section.”

Appendix W titled "Guideline on Air Quality Modeling" is a regulation.

The commenter indicated that EPA's regulations (including Appendix W) do not recommend which models must be used in the PSD program for the 1997 8-hour or PM<sub>2.5</sub> NAAQS as required by 42 U.S.C. 7475(a)(3) to ensure proper implementation of this critical PSD element.<sup>5</sup> The commenter cited 40 CFR 51, Appendix W, Section 5.2.1.c (ozone) and 5.2.2.1.c (PM<sub>2.5</sub>) that indicate that for single source analysis, such as what would be conducted for PSD, the choice of methods used to assess the impact of an individual source depends on the nature of the source and its emissions and the model users should consult with the (EPA) Regional Office to determine the most suitable approach on a case-by-case basis. The commenter alleges that this provision is cited by permitting agencies for the proposition that there is no model available and major sources of ozone precursors and PM<sub>2.5</sub> obtain their PSD permits without demonstrating that they will not cause or contribute to a violation of the 1997 8-hour NAAQS using any modeling method.

The commenter asserted that EPA has not promulgated a guideline model for analysis of ozone precursors for ozone impacts or for PM<sub>2.5</sub> ambient analysis in Appendix W. The commenter noted that Appendix A to Appendix W discusses potential models to be used, but no actual recommendation has been made as to which model or models must be utilized to assure that new or modified major stationary sources in Oklahoma do not cause or contribute to a violation of the 1997 8-hour ozone or PM<sub>2.5</sub> NAAQS. The commenter asserts that EPA was obligated to resolve this dilemma through its Proposed Rule to ensure that Oklahoma's SIP complies with the statutory requirements of the Clean Air Act. The commenter continues that EPA's PSD regulations, 40 CFR part 51, Appendix W, and the Oklahoma SIP do not specify with reasonable particularity the model or models that will be used to ensure this outcome. The commenter noted that in a petition filed with the EPA in July of this year, the Sierra Club called on the EPA to require that photochemical grid models be used to demonstrate that a

<sup>5</sup> Commenter cited U.S.C. 7475(a)(3) indicating that it requires that within six months after August 7, 1977, EPA promulgate regulations respecting which models should be used for the analysis required under this subsection. The commenter also stated that 42 U.S.C. 7475(a)(3)(D) requires EPA to specify with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this part and that EPA can make unique determinations based on meteorology or terrain issues.

source will not cause or contribute to a violation of the 1997 8-hour Ozone or PM<sub>2.5</sub> NAAQS.<sup>6</sup> The petition noted that EPA and states in some respects have already used these models to ensure that individual sources do not cause or contribute to a violation of the NAAQS. Furthermore, these models have the advantage of ensuring that the impact of ozone and PM<sub>2.5</sub> precursors are taken into account to ensure that new or modified major stationary sources do not cause or contribute to NAAQS violations.

The commenter concluded that EPA should not approve this SIP until EPA specifies with reasonable particularity the model or models that must be used to ensure that new or modified major stationary sources in Oklahoma do not cause or contribute to violations of the 1997 8-hour Ozone and PM<sub>2.5</sub> NAAQS in accordance with 40 CFR 52.21(k) and the Oklahoma SIP, and the Agency has no basis for concluding that the Proposed Rule complies with the Clean Air Act, including the requirements of Section 110(a)(2)(D)(i)(II) and Section 110(l).

*Response:* EPA's PSD regulations are found at 40 CFR 51.166 and 52.21. PSD requirements for SIPs are found in 40 CFR 51.166. Similar PSD requirements for SIPs which have been disapproved and for SIPs incorporating EPA's regulations by reference are found in 40 CFR 52.21. These regulations do require an ambient impact analysis for ozone and PM<sub>2.5</sub> (40 CFR 51.166(k), (l) and (m) and 40 CFR 52.21(k), (l) and (m)). The regulations at 40 CFR 51.166(l) state that for air quality models the SIP shall provide for procedures which specify that:

"(1) All applications of air quality modeling involved in this subpart shall be based on the applicable models, data bases, and other requirements specified in appendix W of this part (Guideline on Air Quality Models).

(2) Where an air quality model specified in appendix W of this part (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific State program.

Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for

<sup>6</sup> Commenter included two possible photochemical grid models as examples: Comprehensive Air Quality Model with Extensions (CAMx) and Community Multiscale Air Quality modeling system (CMAQ).

public comment under procedures set forth in § 51.102."

We are approving in the SIP a revision to OAC 252:100-8-35(e) submitted on February 14, 2002, that meets the requirements of 40 CFR 51.166(l). OAC 252:100-8-35(e) states: "(e) Air quality models.

(1) Any air quality dispersion modeling that is required under Part 7 of this Subchapter for estimates of ambient concentrations shall be based on the applicable air quality models, data bases and other requirements specified in the Guidelines on Air Quality Models, OAQPS 1.2-080, U.S. Environmental Protection Agency, April, 1978 and subsequent revisions.

(2) Where an air quality impact model specified in the Guidelines on Air Quality Models is inappropriate, the model may be modified or another model substituted, as approved by the Executive Director. Methods like those outlined in the Workbook for the Comparison of Air Quality Models, U.S. Environmental Protection Agency, April, 1977 and subsequent revisions, can be used to determine the comparability of air quality models."

Additionally, we are approving revisions to OAC 252:100-8-31 and 8-33 submitted on February 14, 2002, and June 24, 2010, which result in the Oklahoma SIP at OAC 252:100-8-35 requiring air quality impacts analysis for ozone consistent with 40 CFR 51.166.(m).<sup>7</sup>

The commenter is correct in the statement that EPA has not selected a single preferred model in Appendix A to Appendix W for conducting ozone impacts. Because of the complexity of modeling ozone and PM<sub>2.5</sub> as described below, we do not believe a model is available that is appropriate in all situations to model these pollutants. Therefore, we continue to believe it is appropriate for States to work with EPA Regional Offices as described in Appendix W to determine the appropriate approach to modeling these pollutants. As pointed out by the commenter, Oklahoma's SIP requires a demonstration that emissions from a new major source or a major modification of a major source will not result in an unacceptable impact to

<sup>7</sup> In addition to the requirements of 40 CFR 51.166(m) 40 CFR 52.21(i)(xi)(5)(i) indicates that "No de minimis air quality level is provided for ozone." However, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data. 40 CFR 51.165 and 51.166 also require permitting authorities to demonstrate that the proposed source will not cause or contribute to violation of the ozone NAAQS per 40 CFR 52.21(k).

ambient air. Furthermore, as described below, Oklahoma has followed Appendix W for new potential sources of ozone and PM<sub>2.5</sub>.

With regard to ozone, a proposed emission source's emissions impacts are dependent upon local meteorology and pollution levels in the surrounding atmosphere. Ozone is formed from chemical reactions in the atmosphere. The level of impact a new source can have on ozone levels is dependent, in part, upon the pollutants already in the surrounding atmosphere with which emissions from the new source can react. In addition, meteorological factors such as wind speed, temperature, wind direction and atmospheric stability are also important. The most sophisticated analyses try to account for meteorology and this interaction with emissions from surrounding sources. EPA has not identified an established modeling system that would fit all situations and take into account all of the additional local information about sources and meteorology. As the commenter indicated the most sophisticated modeling analyses usually add a source into an existing modeling system and model the impact change from the source using a photochemical grid model, such as CAMx or CMAQ. There are also reactive plume models, however, that may be appropriate. We have approved the use of plume models in some instances, but these models are not always appropriate because of the difficulty in obtaining the background information to make an appropriate assessment of the photochemistry and meteorology impacts.

EPA has not selected a specific model for conducting an ozone analysis as it depends upon the details about the modeling systems available and if they are appropriate for assessing the proposed source impacts. Considering that a full development of a photochemical modeling system can be on the order of \$100,000–250,000 or more, it is not generally appropriate to require a source to develop an entire photochemical modeling system just to evaluate its impacts. However, when an existing photochemical modeling system is available, it should be evaluated for potential use. More often now than 10 or 15 years ago, a photochemical modeling system may be available that covers the geographic area of concern, but even if photochemical modeling is available, it must be evaluated to determine its appropriateness for conducting an impact analysis. Things to consider in evaluating appropriateness of a photochemical modeling system include meteorology, year of emissions

projections, model performance issues in the area of concern or in areas that might impact projections in the area of concern, etc. Therefore, even if photochemical modeling systems exist, they may be deemed inappropriate for use in evaluating a proposed source for ozone modeling. Because of these scientific issues EPA has not issued a "Preferred Model" for conducting source impacts on ozone to Appendix A of Appendix W.

In the specific situation of Oklahoma, the state conducted photochemical modeling as part of an Early Action Compact in the 2002–2004 timeframe. This photochemical modeling system was developed specifically for Oklahoma with a 4-kilometer fine grid and includes a base year emission inventory of 1999 and future year emission inventory projection of 2007. Oklahoma has been conducting sensitivity runs using their photochemical modeling system to evaluate the impacts of proposed sources of NO<sub>x</sub> and VOC as part of their review of permit applications.<sup>8</sup> Oklahoma proposed and EPA Region 6 agreed that Oklahoma's photochemical modeling system was acceptable and it would be an appropriate tool for assessing ozone impacts when it is required. Oklahoma has been following this procedure for over 5 years for sources of emissions that were greater than 365 tons per year, and usually models anything greater than 200 tons per year of NO<sub>x</sub> or VOCs. Based on previous modeling, EPA Region 6 and Oklahoma determined that sources with less annual emissions would not likely show an impact large enough to be a concern.

It is also difficult to specify a preferred model for PM<sub>2.5</sub> for similar reasons as described for ozone. While some PM<sub>2.5</sub> is directly emitted from sources (primary), depending on the source type, PM<sub>2.5</sub> is also formed by emissions condensing outside the stack or through chemical reactions with pollutants already in the atmosphere (secondary). EPA promulgated AERMOD as an acceptable model for performing near-field analyses of primary pollutants.<sup>9</sup> EPA considers that AERMOD is an acceptable model for

<sup>8</sup> Oklahoma Department of Environmental Quality Air Dispersion Modeling Guidelines, January 2008, Page 3: "Until EPA publishes guidelines for compliance for individual sources, large sources will be included in available photochemical modeling datasets and will be modeled with the Comprehensive Air Quality Model with extensions (CAMx) to assess impacts and demonstrate compliance with the standard."

<sup>9</sup> Appendix A to Appendix W of 40 CFR 51—Summaries of Preferred Air Quality Models, Part A-1.

estimating impacts of primary PM<sub>2.5</sub>, but EPA has not developed a near-field model that includes the necessary chemistry algorithms to estimate secondary or condensable emission impacts in an ambient air analysis. To address this issue, EPA issued modeling guidance in 2010 to give further direction on how to conduct an ambient impact analyses for PM<sub>2.5</sub>.<sup>10 11</sup> This guidance provided that, with appropriate selection of a background monitor value, much of the PM<sub>2.5</sub> secondary and condensibles could be accounted for using monitoring data. In the case of a large source of secondary PM<sub>2.5</sub> or condensibles, additional modeling may be appropriate using other models for the secondary component, such as a photochemical model. Oklahoma has agreed to review proposed source modeling in accordance with EPA modeling guidance for PM<sub>2.5</sub> and to either model coarse particulate matter (PM<sub>10</sub>) with a demonstration that the modeling is adequate as a surrogate for PM<sub>2.5</sub> impacts or to model PM<sub>2.5</sub> impacts directly using the AERMOD model in accordance with 40 CFR Appendix W and EPA's recent PM<sub>2.5</sub> modeling guidance.<sup>12</sup>

As the commenter pointed out, Appendix W Sections 5.2.1.c and 5.2.2.1.c stipulate that the EPA Regional Office has the authority to work with the state/local permitting authorities on a case-by-case basis in determining the adequate modeling approach for assessing ozone and PM<sub>2.5</sub> impacts. Due to the complexity of modeling Ozone and PM<sub>2.5</sub>, we believe this is an appropriate approach rather than specifying a preferred model that would not be appropriate in all circumstances. The Oklahoma SIP requires sources follow the Guideline on Air Quality Models (40 CFR part 51, Appendix W) in performing modeling to ensure that new or modified major stationary sources in Oklahoma do not cause or contribute to violations of the Ozone and PM<sub>2.5</sub> NAAQS in Oklahoma or other States.

<sup>10</sup> EPA memorandum, dated March 23, 2010, "Modeling Procedures for Demonstrating Compliance with PM<sub>2.5</sub> NAAQS", from Stephen D. Page, Director of Office of Air Quality Planning and Standards.

<sup>11</sup> EPA memorandum, dated February 26, 2010, "Model Clearinghouse Review of Modeling Procedures for Demonstrating Compliance with PM<sub>2.5</sub> NAAQS", from Tyler Fox, Leader of Air Quality Modeling Group of the Office of Air Quality Planning and Standards.

<sup>12</sup> July 29, 2010, letter from Eddie Terrill, Director, Air Quality Division, Oklahoma Department of Environmental Quality to Thomas Diggs, Associate Director for Air Programs, EPA Region 6.

In conclusion, for the reasons stated above it is difficult to identify and implement a national modeling tool. EPA has a standard approach in its PSD SIP and FIP rules of not mandating the use of a particular modeling tool, instead treating the choice of a particular modeling tool for ozone and for non-primary PM<sub>2.5</sub> as circumstance-dependent. For primary PM<sub>2.5</sub> ambient air analysis the guideline model is AERMOD. EPA then determines whether the State's SIP revision submittal meets the PSD SIP requirements. Oklahoma has an EPA-approved PSD SIP that meets the EPA PSD SIP requirements. EPA guidance provides that a State does not interfere with the PSD program of other states if its own PSD program meets Federal requirements. Emissions from sources within Oklahoma are not interfering with the PSD of other states because the State of Oklahoma meets the Federal requirements for PSD. Therefore, we believe that the Oklahoma SIP has measures in place to insure that emissions from Oklahoma do not interfere with PSD programs in other States.

*Comment:* A comment was received that EPA cannot approve the portion of

the Oklahoma SIP which requires an ambient impact analysis, including the gathering of air quality data, for any net emissions increase of 100 tons per year or more of NO<sub>x</sub> subject to PSD, (OAC 252:100-8-33(c)), and cannot conclude that the Oklahoma SIP does not interfere with PSD measures required in any other State. The commenter stated that we propose to approve Oklahoma's finding that, unless a source emits 100 tons/year of NO<sub>x</sub> or VOCs an analysis of impacts to ambient ozone concentrations is not required, that there is no support for this significance threshold, and it appears contrary to the Clean Air Act. The commenter further discussed our citation of 40 CFR 51.166(i)(5)(i)(e), stating that the regulation does not state that an analysis of ambient ozone impacts is not required if NO<sub>x</sub> or VOC emissions are below the 100 tons/year threshold, (as noted by the statement "No de minimis air quality level is provided for ozone"), but rather only states that such analysis is generally required if emissions are higher than the 100 ton/year threshold.

*Response:* We disagree that we cannot (1) approve the revision to OAC 252:100-8-33 and (2) conclude that the Oklahoma SIP does not interfere with

PSD measures required in any other State. We believe the commenter is mistaken in what the Oklahoma SIP requires. Under the Oklahoma SIP revisions we are approving, a new major source with a significant emissions increase of NO<sub>x</sub> or VOC emissions, or a major source with a significant net emissions increase of NO<sub>x</sub> or VOC emissions from a major modification must conduct an analysis of impacts to ambient ozone concentrations (OAC 252:100-8-35(a)).<sup>13</sup> However, such a source with a net emissions increase less than 100 tons/year of NO<sub>x</sub> or VOCs will not have to gather ambient air quality [monitoring] data (OAC 252:100-8-33(c)). The EPA regulations cited at 40 CFR 51.166(i)(5)(i)(e) similarly allow for this exemption with respect to monitoring ozone air quality. The revisions we are approving (1) are consistent with the Clean Air Act and EPA regulations for regulating NO<sub>x</sub> and VOC emissions and (2) ensure that the Oklahoma SIP does not interfere with PSD measures required in any other State. Table 1 is a comparison of Oklahoma and EPA PSD regulations for regulating NO<sub>x</sub> emissions for ozone.

TABLE 1—COMPARISON OF OKLAHOMA AND EPA PSD REGULATIONS FOR REGULATING NO<sub>x</sub> EMISSIONS FOR OZONE

| PSD issue  | Oklahoma regulations being approved  | EPA regulations  |
|--|--|--|
| Regulation of NO <sub>x</sub> as an ozone precursor. | OAC 252:100-8-31. Definitions<br>* * * * *<br>"Regulated NSR pollutant" means (A) A regulated NSR pollutant is: (i) Any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., VOC and NO <sub>x</sub> are precursors for ozone);  | 40 CFR 51.166(b)(49) Regulated NSR pollutant, for purposes of this section, means the following: (i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(49)(i) as a constituent or precursor to such pollutant. Precursors identified by the Administrator for purposes of NSR are the following: (a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas. |
| Definition of Major Source for NO <sub>x</sub> .     | OAC 252:100-8-31. Definitions<br>* * * * *<br>"Major stationary source" means<br>* * * * *<br>(B) A major source that is major for VOC or NO <sub>x</sub> shall be considered major for ozone.   | 40 CFR 51.166(b) Definitions.<br>* * * * *<br>(1) (ii) A major source that is major for volatile organic compounds or NO <sub>x</sub> shall be considered major for ozone.   |
| Definition of "Significant"                          | OAC 252:100-8-31. Definitions<br>* * * * *<br>"Significant" means: (A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, significant means a rate of emissions that would equal or exceed any of the following rates:<br>* * * * *<br>(v) ozone: 40 TPY [tons per year] of VOC or NO <sub>x</sub> , | 40 CFR 51.166(b)(23)(i) Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:<br>Pollutant and Emissions Rate<br>* * * * *<br>Ozone: 40 tpy of volatile organic compounds or nitrogen oxides  |

<sup>13</sup> As noted in our proposal, OAC 252:100-8-31 was revised to include a NO<sub>x</sub> emissions rate of 40

tons per year in the definition of significant (75 FR 56923, 56927).

TABLE 1—COMPARISON OF OKLAHOMA AND EPA PSD REGULATIONS FOR REGULATING NO<sub>x</sub> EMISSIONS FOR OZONE—Continued

| PSD issue                              | Oklahoma regulations being approved  | EPA regulations   |
|--|--|---|
| Exemptions with respect to monitoring. | <p>OAC 252:100–8–33. Exemptions<br/>* * * * *</p> <p>(c) Exemption from monitoring requirements. The monitoring requirements of OAC 252:100–8–35 are not applicable for a particular pollutant if the emission increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following listed amounts, or are pollutant concentrations that are not on the list.<br/>* * * * *</p> <p>(E) Ozone—no de minimis air quality level is provided for ozone, however any net increase of 100 TPY or more of VOC or NO<sub>x</sub> subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,<br/>* * * * *</p> | <p>40 CFR 51.166(i)(5) The plan may provide that the reviewing authority may exempt a proposed major stationary source or major modification from the requirements of paragraph (m) of this section [paragraph (m) is “Air quality analysis”], with respect to monitoring for a particular pollutant, if: (i) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:<br/>* * * * *</p> <p>(e) Ozone;<sup>1</sup><br/>* * * * *</p> <p><sup>1</sup>No de minimis air quality level is provided for ozone. However, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of air quality data.</p> |

*Comment:* One commenter provided comments on Oklahoma SIP provisions that address excess emissions during periods of startup, shutdown and malfunction (SSM). The commenter asserted that Oklahoma’s SSM SIP provisions are inconsistent with EPA policy and have the potential to undermine the effectiveness of the good neighbor requirements of the Act. He further contends that the current SSM provisions interfere with the assumptions on which this rulemaking is based. The commenter argues that Oklahoma cannot ensure that emissions from sources within its borders will not interfere with NAAQS in other states when that determination does not account for the impermissibly broad SSM SIP provisions. The commenter also urged EPA to require Oklahoma to make changes to the existing SSM SIP provisions.

*Response:* In the proposal, we proposed to find that the SIP revision submittal met the CAA requirements that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other State under part C of the CAA to prevent “significant deterioration of air quality.” The comments relating to excess emissions provisions and their impact upon NAAQS in other states are outside the scope of this action.

In the proposal, we specifically note that we are not taking action on Chapter 100, Subchapter 9 (Excess Emissions Reporting Requirements). Further, in this action on 110(a)(2)(D)(i), we are not taking an action that reapproves the existing SSM provisions in the Oklahoma SIP. On July 15, 2010, the

state withdrew the 2002 submittal on Chapter 100, Subchapter 9 (Excess Emissions Reporting Requirements) and submitted revised SSM provisions. We plan to take action on the submission at a later date. Commenters should resubmit their comments then.

**IV. Statutory and Executive Order Review**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.
- The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 25, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 10, 2010.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ 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 LL—Oklahoma**

- 2. In § 52.1920:
  - a. The table in paragraph (c) entitled "EPA APPROVED OKLAHOMA REGULATIONS" is amended as follows:
    - i. Revising the entries under "Regulation 1.4 Air Resources Management Permits Required" for Sections 1.4.1(a) through 1.4.3(c).
    - ii. Removing the centered heading and the entries for "1.4.4 Major Sources—Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas" and removing the centered heading and the entries for "1.4.5. Major Sources—Nonattainment Areas".
    - iii. Adding a new centered heading titled "Subchapter 1. General Provisions" immediately after the heading for Chapter 4 (OAC 252:4) Rules of Practice and Procedure, followed by new entries for Sections 252:4-1-1 through 252:4-1-9.
    - iv. Adding a new centered heading titled "Subchapter 7. Environmental Permit Process" immediately after the entry for Section 252:4-5-9, followed by a new centered heading titled "PART 1. THE PROCESS", followed by new entries for Sections 252:4-7-1 through 252:4-7-19, followed by a new centered heading titled "PART 3. AIR QUALITY DIVISION TIERS AND TIME LINES", followed by new entries for Sections 252:4-7-31 through 252:4-7-34.
    - v. Adding a new entry for "252:4, Appendix C" immediately after the entry for 252:4, Appendix B under Appendices for OAC 252:Chapter 4.
    - vi. Revising the centered heading titled "Subchapter 5. Registration of Air Contaminant Sources" to read "Subchapter 5. Registration, Emissions Inventory and Annual Operating Fees",

revising the entry for Section 252:100-5-1, adding a new entry for Section 252:100-5-1.1, revising the entry for Section 252:100-5-2, adding new entries for Sections 252:100-5-2.1 and 252:100-5-2.2, and revising the entry for Section 252:100-5-3 under "CHAPTER 100 (OAC 252:100), AIR POLLUTION CONTROL".

■ vii. Adding a new centered heading titled "Subchapter 8. Permits for Part 70 Sources" immediately after the entry for Section 252:100-5-3, followed by a new centered heading titled "PART 1. GENERAL PROVISIONS", followed by new entries for Sections 252:100-8-1 through 252:100-8-1.5, followed by a new centered heading titled "PART 5. PERMITS FOR PART 70 SOURCES", followed by new entries for Sections 252:100-8-2 through 252:100-8-8, followed by a new centered heading titled "PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS", followed by new entries for Sections 252:100-8-30 through 252:100-8-37, followed by a new centered heading titled "PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS", followed by new entries for Sections 252:100-8-50 through 252:100-8-54.

■ b. Paragraph (e) is amended by revising the heading of the table to read "EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP" and adding a new entry for the Oklahoma Transport SIP at the end of the table.

The additions and revisions read as follows:

|                  |                                |
|------------------|--------------------------------|
| <b>§ 52.1920</b> | <b>Identification of plan.</b> |
| * * *            | * * *                          |
| (c) * * *        |                                |

**EPA-APPROVED OKLAHOMA REGULATIONS**

| State citation   | Title/subject                    | State effective date   | EPA approval date            | Explanation         |
|--|----------------------------------|------------------------|------------------------------|---------------------|
| <b>OKLAHOMA AIR POLLUTION CONTROL REGULATIONS</b>                |                                  |                        |                              |                     |
| <b>Regulation 1.4. Air Resources Management Permits Required</b> |                                  |                        |                              |                     |
| <b>Regulation 1.4.1 General Permit Requirements</b>              |                                  |                        |                              |                     |
| 1.4.1(a) .....   | Scope and purpose .....          | <sup>1</sup> 5/19/1983 | 8/25/1983, 48 FR 38635 ..... | Minor sources only. |
| 1.4.1(b) .....   | General requirements .....       | 6/4/1990               | 7/23/1991, 56 FR 33715 ..... | Minor sources only. |
| 1.4.1(c) .....   | Necessity to obtain permit ..... | 6/4/1990               | 7/23/1991, 56 FR 33715 ..... | Minor sources only. |
| 1.4.1(d) .....   | Permit fees .....                | <sup>1</sup> 5/19/1983 | 8/25/1983, 48 FR 38635 ..... | Minor sources only. |
| <b>1.4.2 Construction Permit</b>                                 |                                  |                        |                              |                     |
| 1.4.2(a) .....   | Standards required .....         | 6/4/1990               | 7/23/1991, 56 FR 33715 ..... | Minor sources only. |
| 1.4.2(b) .....   | Stack height limitation .....    | 6/11/1989              | 8/20/1990, 55 FR 33905 ..... | Minor sources only. |
| 1.4.2(c) .....   | Permit applications .....        | 6/4/1990               | 7/23/1991, 56 FR 33715 ..... | Minor sources only. |
| 1.4.2(d) .....   | Action on applications .....     | <sup>1</sup> 5/19/1983 | 8/25/1983, 48 FR 38635 ..... | Minor sources only. |
| 1.4.2(e) .....   | Public review .....              | 6/11/1989              | 8/20/1990, 55 FR 33905 ..... | Minor sources only. |

EPA-APPROVED OKLAHOMA REGULATIONS—Continued

| State citation                | Title/subject                                     | State effective date | EPA approval date      | Explanation         |
|-------------------------------|---|----------------------|------------------------|---------------------|
| 1.4.2(f)                      | Construction permit conditions                    | 1 5/19/1983          | 8/25/1983, 48 FR 38635 | Minor sources only. |
| 1.4.2(g)                      | Cancellation of authority to construct or modify. | 1 2/6/1984           | 7/27/1984, 49 FR 30184 | Minor sources only. |
| 1.4.2(h)                      | Relocation permits                                | 11/14/1990           | 7/23/1991, 56 FR 33715 | Minor sources only. |
| <b>1.4.3 Operating Permit</b> |   |                      |                        |                     |
| 1.4.3(a)                      | Requirements                                      | 1 5/19/1983          | 8/25/1983, 48 FR 38635 | Minor sources only. |
| 1.4.3(b)                      | Permit applications                               | 1 5/19/1983          | 8/25/1983, 48 FR 38635 | Minor sources only. |
| 1.4.3(c)                      | Operating permit conditions                       | 1 5/19/1983          | 8/25/1983, 48 FR 38635 | Minor sources only. |

\* \* \* \* \*

**OKLAHOMA ADMINISTRATIVE CODE**

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**CHAPTER 4 (OAC 252:4). RULES OF PRACTICE AND PROCEDURE**

**Subchapter 1. General Provisions**

|           |  |           |   |
|-----------|--|-----------|---|
| 252:4-1-1 | Purpose and authority                      | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-2 | Definitions                                | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-3 | Organization                               | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-4 | Office location and hours; communications. | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-5 | Availability of a record                   | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-6 | Administrative fees                        | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-7 | Fee credits for regulatory fees            | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-8 | Board and councils                         | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-1-9 | Severability                               | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |

\* \* \* \* \*

**Subchapter 7. Environmental Permit Process**

**PART 1. THE PROCESS**

|            |                                    |           |   |
|------------|------------------------------------|-----------|---|
| 252:4-7-1  | Authority                          | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-2  | Preamble                           | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-3  | Compliance                         | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-4  | Filing an application,             | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-5  | Fees                               | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-6  | Receipt of applications            | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-7  | Administrative completeness review | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-8  | Technical review                   | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-9  | When review times stop             | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-10 | Supplemental time                  | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-11 | Extensions                         | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |
| 252:4-7-12 | Failure to meet deadline           | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |



## EPA-APPROVED OKLAHOMA REGULATIONS—Continued

| State citation   | Title/subject                              | State effective date | EPA approval date   | Explanation  |
|------------------|--|----------------------|---|--|
| 252:4-7-13 ..... | Notices .....                              | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. | NOT in SIP: Paragraph (e) and paragraph (f) requirements for permits other than Part 70 permits. |
| 252:4-7-14 ..... | Withdrawing applications .....             | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-15 ..... | Permit issuance or denial .....            | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-16 ..... | Tier II and III modifications .....        | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-17 ..... | Permit decision-making authority .....     | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-18 ..... | Pre-issuance permit review and correction. | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-19 ..... | Consolidation of permitting process ...    | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |  |

**PART 3. AIR QUALITY DIVISION TIERS AND TIME LINES**

|                  |   |           |   |  |
|------------------|---|-----------|---|--|
| 252:4-7-31 ..... | Air quality time lines .....            | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-33 ..... | Air quality applications—Tier II .....  | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:4-7-34 ..... | Air quality applications—Tier III ..... | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |

\* \* \* \* \*

**Appendices for OAC 252: Chapter 4**

|                    |                                  |           |   |  |
|--------------------|----------------------------------|-----------|---|--|
| 252:4, Appendix C. | Permitting process summary ..... | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
|--------------------|----------------------------------|-----------|---|--|

\* \* \* \* \*

**CHAPTER 100 (OAC 252:100). AIR POLLUTION CONTROL**

\* \* \* \* \*

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

|                  |  |           |   |   |
|------------------|--|-----------|---|---|
| 252:100-5-1 .... | Purpose .....  | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100-5-1.1    | Definitions .....                                      | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. | NOT in SIP: Paragraph (D) under "Regulated air pollutants". |
| 252:100-5-2 .... | Registration of potential sources of air contaminants. | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100-5-2.1    | Emission inventory .....                               | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100-5-2.2    | Annual operating fees .....                            | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100-5-3 .... | Confidentiality of proprietary information.            | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |   |

**Subchapter 8. Permits for Part 70 Sources****PART 1. GENERAL PROVISIONS**

|                  |                           |           |   |  |
|------------------|---------------------------|-----------|---|--|
| 252:100-8-1 .... | Purpose .....             | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:100-8-1.1    | Definitions .....         | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:100-8-1.2    | General information ..... | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |
| 252:100-8-1.3    | Duty to comply .....      | 6/11/2001 | 11/26/2010 [Insert FR page number where document begins]. |  |

## EPA-APPROVED OKLAHOMA REGULATIONS—Continued

| State citation   | Title/subject  | State effective date | EPA approval date   | Explanation   |
|--|--|----------------------|---|---|
| 252:100–8–1.4  | Cancellation or extension of a construction permit or authorization under a general construction permit. | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–1.5  | Stack height limitations .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| <b>PART 5. PERMITS FOR PART 70 SOURCES</b>   |  |                      |   |   |
| 252:100–8–2 ....   | Definitions .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. | NOT in SIP: Paragraph (C) under “Insignificant activities”.   |
| 252:100–8–3 ....   | Applicability .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–4 ....   | Requirements for construction and operating permits.   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–5 ....   | Permit applications .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–6 ....   | Permit content .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–6.1  | General permits .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–6.2  | Temporary sources .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–6.3  | Special provisions for affected (acid rain) sources.   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7 ....   | Permit issuance .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7.1  | Permit renewal and expiration .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7.2  | Administrative permit amendments and permit modifications.   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7.3  | Reopening of operating permits for cause.  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7.4  | Revocations of operating permits .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–7.5  | Judicial review .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–8 ....   | Permit review by EPA and affected states.  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| <b>PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS</b> |  |                      |   |   |
| 252:100–8–30 ..  | Applicability .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–31 ..  | Definitions .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. | Revisions submitted on June 24, 2010 are approved as follows: a major source that is major for NO <sub>x</sub> shall be considered major for ozone in the definition of Major Stationary Source; Regulated NSR pollutant definition; and definition of Significant. |
| 252:100–8–32 ..  | Source applicability determination .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–33 ..  | Exemptions .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. | The revision to OAC 252:100–8–33(c)(E) submitted on June 24, 2010 is approved.  |
| 252:100–8–34 ..  | Best available control technology .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–35 ..  | Air quality impact evaluation .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–36 ..  | Source impacting Class I areas .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |
| 252:100–8–37 ..  | Innovative control technology .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |   |

EPA-APPROVED OKLAHOMA REGULATIONS—Continued

| State citation   | Title/subject   | State effective date | EPA approval date   | Explanation                   |
|--|---|----------------------|---|-------------------------------|
| <b>PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS</b> |   |                      |   |                               |
| 252:100–8–50 ..  | Applicability .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |                               |
| 252:100–8–51 ..  | Definitions .....   | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |                               |
| 252:100–8–52 ..  | Source applicability determination .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. | NOT in SIP: paragraph (b)(2). |
| 252:100–8–53 ..  | Exemptions .....  | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |                               |
| 252:100–8–54 ..  | Requirements for sources located in nonattainment areas PSD or NNSR program submissions containing rule changes for PM <sub>2.5</sub> . | 6/11/2001            | 11/26/2010 [Insert FR page number where document begins]. |                               |

<sup>1</sup> Submitted.

(e) \* \* \*

**EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP**

| Name of SIP provision  | Applicable geographic or non-attainment area | State submittal date | EPA approval date                            | Explanation  |
|--|--|----------------------|--|--|
| Interstate transport for the 1997 ozone and PM <sub>2.5</sub> NAAQS. | Statewide .....                              | 5/1/2007             | 11/26/2010 [Insert citation of publication]. | Approval for revisions to prohibit interference with Prevention of Significant Deterioration in any other State. |

[FR Doc. 2010–29398 Filed 11–24–10; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R10–OAR–2010–0669; FRL–9231–2]

**Approval and Promulgation of Implementation Plans; Idaho**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State for Idaho for the purpose of addressing the “good neighbor” provisions of the Clean Air Act (the Act or CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 PM<sub>2.5</sub> NAAQS. This SIP revision addresses the requirement that the State of Idaho’s SIP have adequate provisions to prohibit air emissions from adversely affecting another state’s air quality

through interstate transport. In this action, EPA is approving the Idaho Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i) that emissions from Idaho sources do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS in any other state, interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS in any other state, and interfere with measures required in the SIP of any other state under part C of subchapter I of the CAA to prevent significant deterioration of air quality. This action is being taken under section 110 and part C of subchapter I of the CAA.

**DATES:** This action is effective on December 27, 2010.

**ADDRESSES:** Copies of the State’s SIP revision and other information supporting this action are available for inspection at EPA Region 10, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen, EPA Region 10, Office of

Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101, or at (206) 553–6706.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we”, “us” or “our” are used, we mean EPA. Information is organized as follows:

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**I. What action is EPA taking?**

EPA is approving a portion of Idaho’s Interstate Transport State Implementation Plan (SIP) revision for the 1997 8-hour ozone and 1997 PM<sub>2.5</sub> NAAQS submitted by the Idaho Department of Quality (IDEQ) on June 28, 2010. Specifically, we are approving the portion of the plan that addresses