

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD-FRL-]

Prevention of Significant Deterioration (PSD) and
Nonattainment New Source Review (NSR); Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking; clarification and
corrections.

SUMMARY: This document contains a clarification and
corrections to the proposed rulemaking, the NSR Reform
rulemaking, which was published Tuesday, July 23, 1996 (61
FR 38249). The NSR Reform rulemaking proposes to revise
regulations for the approval and promulgation of
implementation plans, and the requirements for preparation,
adoption, and submittal of implementation plans governing
the NSR programs mandated by parts C and D of title I of the
Clean Air Act.

FOR FURTHER INFORMATION CONTACT: Daniel deRoeck,
Information Transfer and Program Integration Division, MD-
12, Office of Air Quality Planning and Standards, U.S. EPA,
Research Triangle Park, North Carolina 27711, telephone
(919) 541-5593, telefax (919) 541-5509.

SUPPLEMENTARY INFORMATION:

Clarification

The EPA proposed the Clean Unit exclusion as a

simplified applicability test for changes to existing emissions units that already are well controlled. See 61 FR 38255-38258. The proposal is intended to require that in order for an existing emissions unit to qualify as a "clean unit" the unit must have a federally enforceable emissions limit that "is comparable" to the best available control technology or lowest achievable control technology requirements for that type of unit, whichever would otherwise be applicable to the proposed change. The relevant regulatory language is contained in proposed §51.165(a)(1)(v)(C)(10) through (13) of the nonattainment NSR rules, §§51.166(b)(2)(iii)(L)(1) through (4), and 52.21(b)(2)(iii)(L)(1) through (4) of the PSD rules, and is referenced in §52.24(f) of the statutory restriction on new sources (construction ban). In each rule, EPA intended that eligibility for the clean unit exclusion is to be contingent upon several criteria being satisfied. However, in the proposed language in §51.165 it may not be clear to the reader that each of the criteria under paragraphs (a)(1)(v)(C)(10) through (a)(1)(v)(C)(13) must be satisfied in order for an emissions unit to qualify for the exclusion. Because of a problem with the overall structure of the regulations at §51.165, it is not feasible to make a simple correction without first restructuring the overall regulation. Instead, for purposes of interpreting and

commenting on the proposal the reader is advised to read the "Clean Unit" exemption as provided in §§51.166(b)(2)(iii)(L)(1) through (4) and 52.21(b)(2)(iii)(L)(1) through (4) (as corrected below) for the correct interpretation of the proposed exclusion. The EPA is considering the most effective way to restructure §51.165 to correct the problem, and intends to make the necessary restructuring at the time of promulgation of final rulemaking.

Need for Correction

As published, the preamble and proposed amendments to the regulations at §§51.166 and 52.21, contain errors which are misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on July 23, 1996 of the proposed regulations 40 CFR 51.166 and 52.21, which were the subject of FR Doc. 96-17544, are corrected to read as follows:

Correction to Preamble

1. On page 38258, in the first column, in section II.C.4., Description of the Clean Facility Proposal, in the third sentence, the reference "§§51.165(a)(1)(v)(C)(11)," is corrected to read "§§51.165(a)(1)(v)(C)(14),".

§51.166 [Corrected]

2. On page 38330, in the second column, in §51.166,

paragraph (b)(2)(iii)(L)(2)(iii), the last line is corrected by removing the period (".") and adding a semicolon (";").

Notice to Clarify and Correct NSR Reform Rulemaking--page 4 of 4.

3. On page 38330, in the second column, in §51.166, paragraph (b)(2)(iii)(L)(3), the last line is corrected by adding the word "and" after the semicolon.

4. On page 38330, in the second column, in §51.166, paragraph (b)(2)(iii)(L)(4), the last line is corrected by removing the text "; and" and adding a period (".").

§52.21 [Corrected]

5. On page 38337, in the third column, in §52.21, paragraph (b)(2)(iii)(L)(2)(iii), the last line is corrected by removing the period (".") and adding a semicolon (";").

6. On page 38337, in the third column, in §52.21, paragraph (b)(2)(iii)(L)(3), the last line is corrected by adding the word "and" after the semicolon.

7. On page 38337, in the third column, in §52.21, in paragraph (b)(2)(iii)(L)(4), the last line is corrected by removing the text "; and" and adding a period (".").

Date

Assistant Administrator
for Air and Radiation

BILLING CODE: 6560-50-P