longitude 76°32′06″ W; thence to latitude 37°15′27″ N, longitude 76°31′48″ W; thence to latitude 37°15′05″ N, longitude 76°31′27″ W; thence to a point on the shore line at latitude 37°14′51″ N, longitude 76°31′50″ W; and thence along the shore line to the point of beginning.

(2) *Naval mine service-testing area (restricted).* A rectangular area adjacent to the northeast boundary of the prohibited area described in paragraph (a)(1) of this section, beginning at latitude 37°16′00″ N, longitude 76°32′29″ W; thence to latitude 37°16′23″ N, longitude 76°32′00″ W; thence to latitude 37°15′27″ N, longitude 76°30′54″ W; thence to latitude 37°15′05″ N, longitude 76°31′27″ W; thence to latitude 37°15′27″ N, longitude 76°31′48″ W; thence to latitude 37°15′42″ N, longitude 76°32′06″ W; thence to latitude 37°15′40″ N, longitude 76°32′09″ W; and thence to the point of beginning.

(3) *Explosives-Handling Berth (Naval).* A circular area of 600 yards radius with its center at latitude 37°13′56″ N, longitude 76°28′48″ W.

(4) *Felgates Creek (prohibited).* Navigable waters of the United States as defined at 33 CFR part 329 within Felgates Creek from the boundary fence line at the mouth to the mean high water line of the head and all associated tributaries. The area contains the entirety of Felgates Creek and all associated tributaries south of the line which begins at latitude 37°16′24″ N, longitude 76°35′12″ W and extends east to latitude 37°16′21″ N, longitude 76°35′00″ W.

(5) *Indian Field Creek (prohibited).* Navigable waters of the United States as defined at 33 CFR part 329 within Indian Field Creek from the boundary fence line at the mouth to the mean high water line of the head and all associated tributaries. The area contains the entirety of Indian Field Creek and all associated tributaries south of the line which begins at latitude 37°16′05″ N, longitude 76°33′29″ W and extends east to latitude 37°16′01″ N, longitude 76°33′22″ W.

(b) *The regulations.* (1) All persons and all vessels other than naval craft are forbidden to enter the prohibited area described in paragraph (a)(1) of this section.

(2) Trawling, dragging, and net-fishing are prohibited, and no permanent obstructions may at any time be placed in the area described in paragraph (a)(2) of this section. Upon official notification, any vessel anchored in the area and any person in the area will be required to vacate the area during the actual mine-laying operation. Persons and vessels entering the area during mine-laying operations by aircraft must proceed directly through the area without delay, except in case of emergency. Naval authorities are required to publish advance notice of mine-laying and/or retrieving operations scheduled to be carried on in the area, and during such published periods of operation, fishing or other aquatic activities are forbidden in the area. No vessel will be denied passage through the area at any time during either mine-laying or retrieving operations.

(3) The Explosives-Handling Berth (Naval) described in paragraph (a)(3) of this section is reserved for the exclusive use of naval vessels and except in cases of emergency no other vessel shall anchor therein without the permission of local naval authorities, obtained through the Captain of the Port, U.S. Coast Guard, Norfolk, Virginia. There shall be no restriction on the movement of vessels through the Explosive-Handling Berth.

(4) Vessels shall not be anchored, nor shall persons in the water approach within 300 yards of the perimeter of the Explosives-Handling Berth (Naval) when that berth is occupied by a vessel handling explosives.

(5) All persons and all vessels are forbidden to enter the prohibited areas described in paragraphs (a)(4) and (a)(5) of this section without prior permission of the enforcing agency.

(6) The regulations of this section shall be enforced by the Commander, Naval Weapons Station Yorktown, Virginia, and such agencies as he/she may designate.

Dated: October 1, 2012.

James R. Hannon,

Chief, Operations and Regulatory Directorate of Civil Works.

[FR Doc. 2012–24994 Filed 10–10–12; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0553; FRL–9738–9]

Partial Approval and Partial Disapproval of Air Quality Implementation Plans for Florida, Mississippi, and South Carolina; Section 110(a)(2)(D)(i)(I) Transport Requirements for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to partially approve and partially disapprove revisions to the State Implementation Plans (SIPs) for Florida, Mississippi, and South Carolina submitted on September 23, 2009, October 6, 2009, and September 18, 2009, respectively. EPA is approving the determinations, contained in those submittals, that the existing SIPs for Florida, Mississippi, and South Carolina are adequate to meet the obligation under section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA or Act) to address interstate transport requirements with regard to the 2006 24-hour particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). Specifically, the interstate transport requirements contained in section 110(a)(2)(D)(i)(I) of the CAA prohibit a state's emissions from significantly contributing to nonattainment or interfering with the maintenance of the NAAQS in any other state. EPA is approving the States' determinations that their existing SIPs satisfy this requirement and conclusion that additional control measures are not necessary under section 110(a)(2)(D)(i)(I) because emissions from Florida, Mississippi and South Carolina do not contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state. EPA is also disapproving the SIP submissions from Florida, Mississippi and South Carolina to the extent that they rely on the Clean Air Interstate Rule (CAIR) to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. Because CAIR does not address the 2006 $PM_{2.5}$ NAAQS, it cannot be relied upon to satisfy any requirements related to that NAAQS.

DATES: This rule will be effective on November 13, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0553. All documents in the docket are listed on the *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 *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: Sean Lakeman, 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. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On September 21, 2006, EPA revised the 24-hour average $PM_{2.5}$ primary and secondary NAAQS from 65 micrograms per cubic meter (μg/m^3) to 35 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144 (October 17, 2006). Section 110(a)(1) of the CAA requires states to submit to EPA SIPs that provide for the ''implementation, maintenance, and enforcement'' of a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe.[1] Sections 110(a)(1) and (2) require these submissions to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. EPA thus refers to these submissions as ''infrastructure'' SIPs. States were required to submit such SIPs to EPA no later than September 21, 2009, for the 2006 24-hour $PM_{2.5}$ NAAQS. SIPs must address the requirements of 110(a)(2), as applicable.

On September 23, 2009, October 6, 2009, and September 18, 2009, Florida, Mississippi and South Carolina, respectively, provided EPA with infrastructure SIP submissions certifying that the provisions in their current SIPs were adequate to address the CAA section 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. On July 23, 2012, EPA proposed to partially approve Florida, Mississippi and South Carolina's determination that their existing SIPs satisfy this requirement and to conclude that additional control measures are not necessary under section 110(a)(2)(D)(i)(I) because emissions from these states do not contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state. Additionally, in the same proposal EPA proposed to partially disapprove Florida, Mississippi and South Carolina's determination that their existing SIPs satisfy section 110(a)(2)(D)(i)(I) to the extent that these states relied upon CAIR to meet section 110(a)(2)(D)(i)(I) requirements in their infrastructure submissions for the 2006 $PM_{2.5}$ NAAQS, since CAIR did not address that NAAQS. See EPA's July 23, 2012, proposed rulemaking at 77 FR 43018 for more detail. EPA received no adverse comments on this proposal.

EPA is taking final action to partially approve and partially disapprove revisions to the SIPs for Florida, Mississippi, and South Carolina submitted on September 23, 2009, October 6, 2009, and September 18, 2009 respectively. EPA is approving the States' determinations that the existing SIPs of Florida, Mississippi, and South Carolina have adequate provisions to satisfy the obligation under section 110(a)(2)(D)(i)(I) of the CAA to address interstate transport requirements with regard to the 2006 24-hour $PM_{2.5}$ NAAQS. This conclusion is based on air quality modeling originally conducted to quantify each individual state's contributions to downwind nonattainment and maintenance areas during the rulemaking process for the Transport Rule (also known as the Cross State Air Pollution Rule or CSAPR). This modeling is described in a technical support document which is in the docket for this rulemaking, Docket ID No., EPA–R04–OAR–2012–0553. This air quality modeling demonstrates that emissions from the states of Florida, Mississippi and South Carolina do not contribute more than one percent of the NAAQS to any downwind areas with nonattainment and maintenance problems with respect to the 2006 $PM_{2.5}$ NAAQS. For this reason, as explained in the proposal, 77 FR 43021, EPA concludes that these states do not contribute significantly to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$ NAAQS in another state.

The recent opinion vacating the Transport Rule, *EME Homer City Generation* v. *EPA,* No. 11–1302 (D.C. Cir., August 21, 2012), does not alter our conclusion that the existing SIPs for these states adequately address this requirement, and our rationale supporting this conclusion remains the same. Nothing in the *Homer City* opinion suggests that the air quality modeling on which our July 23, 2012 proposal relied was flawed or invalid for any reason. In addition, nothing in that opinion undermines or calls into question our proposed conclusion that, because emissions from Florida, Mississippi and South Carolina do not contribute more than one percent of the NAAQS to any downwind area with nonattainment or maintenance problems, these states do not contribute significantly to nonattainment or interfere with maintenance in another state. As EPA explained in the proposal, 77 FR 43022, this action does not rely on any requirements of the Transport Rule or emission reductions associated with that rule to support its conclusion that these three states have met their 110(a)(2)(D)(i)(I) obligations with respect to the 2006 $PM_{2.5}$ NAAQS.

Additionally, EPA is partially disapproving the SIP submissions from Florida, Mississippi and South Carolina to the extent they rely on CAIR to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. As explained in our July 23, 2012, proposal, 77 FR 43021, a state may not rely on CAIR to satisfy the requirements of section 110(a)(2)(D)(i)(I) with respect to the 2006 $PM_{2.5}$ NAAQS because CAIR addressed only the 1997 $PM_{2.5}$ and 8-hour ozone NAAQS and did not address the 2006 $PM_{2.5}$ NAAQS or any requirements related to that NAAQS. Today's partial disapproval will not trigger any further action, or a Federal Implementation Plan, for these States because today's action does not identify any deficiency in the SIPs. Thus, no further action will be required on the part of Florida, Mississippi, or South Carolina as a result of the partial disapproval because the SIPs themselves are not deficient with respect to the 2006 24-hour $PM_{2.5}$ NAAQS.

II. Final Action

EPA is taking final action to partially approve and partially disapprove infrastructure submissions from Florida, Mississippi and South Carolina dated September 23, 2009, October 6, 2009 and September 18, 2009, respectively,

[1] The rule establishing the revised $PM_{2.5}$ NAAQS was signed by the Administrator and publically disseminated on September 21, 2006. Because EPA did not prescribe a shorter period for 110(a) ''infrastructure'' SIP submittals, these submittals were due on September 21, 2009, three years from the September 21, 2006, signature date pursuant to section 110(a)(1) of the CAA.

regarding the 110(a)(2)(D)(i)(I) requirements for the 2006 $PM_{2.5}$ NAAQS. Today's partial disapproval will not trigger a FIP for these States. *See* EPA's July 23, 2012, proposed rulemaking at 77 FR 43018 for more detail. In this action, EPA is only addressing the SIP revisions respecting section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS. The SIP revisions pertaining to the remainder of section 110(a)(2)(D)(i) and sections 110(a)(2)(A)–(M), except for sections 110(a)(2)(C) and 110(a)(2)(I) nonattainment area requirements, are being addressed in separate actions.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action partially approves state law as meeting federal requirements and partially disapproves state law because it does not meet federal requirements. 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 CAA; 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 for Florida and Mississippi as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Further, EPA has determined that this final rule does not have tribal implications for South Carolina as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because there are no ''substantial direct effects'' on an Indian Tribe as a result of this action. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte nonattainment area. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' Thus, the South Carolina SIP applies to the Catawba Reservation. EPA has also preliminarily determined that these revisions will not impose any 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2012. 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 in 40 CFR Part 52

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

Dated: September 27, 2012.

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 K—Florida

■ 2. Section 52.520(e) is amended by adding a new entry for ''110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS'' at the end of the table to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
* *		*	* *	* *
110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.	9/23/2009	10/11/2012	[Insert citation of publication].	EPA partially disapproved this SIP submission to the extent that it relied on the Clean Air Interstate Rule to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.

Subpart Z—Mississippi

■ 3. Section 52.1270(e) is amended by adding a new entry for ''110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS'' at the end of the table to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MISSISSIPPI NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	* *		* *	* *
110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.	Mississippi	10/6/2009	10/11/2012 [Insert citation of publication].	EPA partially disapproved this SIP submission to the extent that it relied on the Clean Air Interstate Rule to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.

Subpart PP—South Carolina

■ 4. Section 52.2120(e) is amended by adding a new entry for ''110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS'' at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) *EPA-approved South Carolina non-regulatory provisions.*

Provision	State effective date	EPA approval date	Explanation
*	*	* *	* *
110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.	9/18/2009	10/11/2012 [Insert citation of publication].	EPA partially disapproved this SIP submission to the extent that it relied on the Clean Air Interstate Rule to meet the 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.

[FR Doc. 2012–24897 Filed 10–10–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–BA64

Atlantic Highly Migratory Species; Vessel Monitoring Systems

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of effective date for VMS requirements in Atlantic HMS fisheries.

SUMMARY: As of January 1, 2013, all vessels participating in Atlantic HMS fisheries that are subject to VMS requirements, including vessels with pelagic longline gear on board, vessels with bottom longline gear on board in the vicinity of the mid-Atlantic closed area (between 33° N and 36°30′ N) from January 1 to July 31, and vessels with shark gillnet gear on board fishing between November 15 and April 15, must have an Enhanced Mobile Transmitting Unit (E–MTU) installed by a qualified marine electrician and must provide hail in/hail out declarations specifying target species, gear possessed onboard, and location and timing of landing. These requirements were originally effective March 1, 2011, consistent with a December 2, 2011 final rule. On February 29, 2012, NMFS provided notice that HMS vessels could use either old MTUs or new E–MTUs without providing hail in/hail out declarations specifying target species, gear possessed onboard, and location and timing of landing. However, no new installations of MTUs were permitted, all installations of E–MTUs were required to be done by a qualified marine electrician, and vessels were to provide hourly position reports using VMS units starting two hours prior to leaving port and at all times away from port.

DATES: As of January 1, 2013, all vessels participating in Atlantic HMS fisheries that are subject to VMS requirements, including vessels with pelagic longline gear on board, vessels with bottom longline gear on board in the vicinity of the mid-Atlantic closed area (between 33° N and 36°30′ N) from January 1 to July 31, and vessels with shark gillnet