

filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before July 31, 2009.

Dated: May 22, 2009.

Lisa P. Jackson,
Administrator.

■ For reasons discussed in the preamble, the EPA amends 40 CFR part 52 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.*

§ 52.21 [Amended]

■ 2. Effective June 1, 2009, in § 52.21, paragraph (i)(1)(xi) is administratively stayed until September 1, 2009.

[FR Doc. E9-12572 Filed 5-29-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2008-0797-200824(a); FRL-8911-5]

Approval and Promulgation of Air Quality Implementation Plans: South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for Cherokee County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Carolina State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for Cherokee County, South Carolina. This maintenance plan was submitted for EPA action on December 13, 2007, by the State of South Carolina, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) through the year 2014. EPA is approving the SIP revision pursuant to section 110 of the Clean Air Act (CAA). The maintenance plan meets all the statutory and regulatory requirements, and is consistent with EPA's guidance. On March 12, 2008, EPA issued a revised ozone standard. Today's action, however, is being taken to address requirements under the 1997 8-hour ozone standard. Requirements for the Cherokee County Area under the 2008 8-hour ozone standard will be addressed in the future.

DATES: This rule is effective on July 31, 2009 without further notice, unless EPA receives relevant adverse comment by July 1, 2009. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0797, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: benjamin.lynorae@epa.gov.

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2008-0797," 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.

5. *Hand Delivery or Courier*: Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. "EPA-R04-OAR-2008-0797." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farnago, 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. Zuri Farnago may be reached by phone at (404) 562-9152 or by electronic mail address farnago.zuri@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Analysis of the State's Submittals
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

In accordance with the CAA, the Cherokee County Area in South Carolina was designated as a nonattainment area effective November 6, 1991 (56 FR 56694) because the area did not meet the 1-hour ozone NAAQS.

On December 15, 1992, the State of South Carolina submitted a request to redesignate the Cherokee County Area

to attainment for the 1-hour ozone standard. Included in the same package along with the redesignation request, South Carolina submitted the required 1-hour ozone monitoring data and maintenance plan ensuring the areas would remain in attainment for the 1-hour ozone standard for a period of 10 years. The maintenance plan submitted by South Carolina followed applicable law and EPA guidance for the required period.

EPA approved South Carolina's request to redesignate the Cherokee County, South Carolina area (67 FR 20647) to attainment for the 1-hour ozone standard. The maintenance plan for Cherokee County was approved on April 26, 2002, with an effective date of June 25, 2002 (67 FR 2647).

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951), also known as the "Phase 1 Implementation Rule." The Cherokee County Area was designated as attainment for the 1997 8-hour ozone standard, effective June 15, 2004. The attainment area consequently was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 Implementation Rule. On May 20, 2005, EPA issued guidance providing information on how a State might fulfill the maintenance plan obligation established by the CAA and the Phase 1 Implementation Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005—hereafter referred to as "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Implementation Rule for the 1997 8-hour Ozone Standard. (*South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (DC Cir. 2006).) The Court vacated those portions of the Phase 1 Implementation Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions. The Court's decision does not alter any requirements under the Phase 1 Rule for

this maintenance plan. South Carolina's December 13, 2007, proposed SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Cherokee County Area.

II. Analysis of the State's Submittals

On December 13, 2007, the State of South Carolina submitted a SIP revision containing the 1997 8-hour ozone maintenance plan for the Cherokee County Area as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Implementation Rule (see 40 CFR 51.905(a)(4)). The purpose of this plan is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Cherokee County Area until 2014.

As required, this plan provides for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the area for 10 years from the effective date of the area's designation as attainment for the 1997 8-hour ozone NAAQS, and includes components illustrating how the Cherokee County Area will continue attainment of the 1997 8-hour ozone NAAQS and provides contingency measures. Each of the section 110(a)(1) plan components is discussed below for each area.

(a) *Attainment Inventory*. South Carolina developed comprehensive inventories of volatile organic compounds (VOC) and nitrogen oxide (NO_x) emissions from area, stationary point, stationary area, on-road mobile, biogenic, and non-road mobile sources using 2002 as the base year to demonstrate maintenance of the 1997 8-hour ozone NAAQS for the Cherokee County Area. The year 2002 is an appropriate year for South Carolina to base attainment level emissions because States may select any one of the three years on which the 1997 8-hour attainment designation was based (2001, 2002, and 2003). The State's submittal contains the detailed inventory data and summaries by source category. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values¹ on which the 1997 8-hour

ozone designation decisions were based. It also is one of the years in the 2000–2004 period used to establish baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the rule as June 2004. In accordance with these requirements, South Carolina compiles a Statewide emissions inventory for point sources on an annual basis. On-road mobile emissions of VOC and NO_x were estimated using MOBILE 6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived using the U.S. EPA's Non-Road model.

In projecting data for the attainment year 2014 inventory, South Carolina used several methods to project data from the base year 2002 to the years 2010, 2012, and 2014. These projected inventories were developed using EPA-approved technologies and methodologies. EPA's Emissions Growth Analysis System model was used to derive growth factors for area source data. These growth factors were used to estimate projected area source emissions. The 2020 emissions inventory was used to develop projections for stationary point, stationary area and nonroad mobile sources. The projections for stationary point sources and nonroad mobile sources were calculated by applying a one percent per year industrial growth rate, based on forecasted economic indicators listed in University of South Carolina Moore Business School publications.

The following table provides VOC and NO_x emissions data for the 2002 base attainment year inventory, as well as projected VOC and NO_x emissions inventory data for 2010, 2012, and, 2014.

standard, the air quality design value is simply the standard-related test statistic. Thus, for the primary and secondary ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration is also the air quality design value for the site. 40 CFR Part 50, Appendix I, Section 3.

¹ The air quality design value at a monitoring site is defined as that concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based

TABLE 1—CHEROKEE COUNTY VOC AND NO_x EMISSIONS INVENTORY

Emissions	2002	2010	2012	2014
Total VOC (tons per day)	46.61	46.44	46.51	46.63
Total NO _x (tons per day)	11.21	8.84	8.24	7.77

As shown in Table 1 above, the Cherokee County Area is projected to decrease total NO_x emissions from the base year of 2002 to the maintenance year of 2014. Total VOC emissions steadily decreased from the base year of 2002 through 2010, but are then projected to increase by 0.12 tons per day between the years 2012 to the maintenance year of 2014. However, year 2014 emissions are only slightly more than the baseline year emission level. Thus South Carolina demonstrated that the 1997 8-hour ozone standard will continue to be maintained. This small increase of 0.02 tons per day above the base year 2002 inventory is not expected to have an impact on maintenance of the 1997 standard, particularly because the VOC inventory in this area is dominated by biogenic sources. On-road mobile emission projections were calculated by using EPA's MOBILE6.2 emission factor model.

As shown in the table above, South Carolina has demonstrated that the future year emissions will be less than or consistent with the 2002 base attainment year's emissions for the 1997 8-hour ozone NAAQS. The attainment inventory submitted by South Carolina for this area is consistent with the criteria as discussed in the Wegman Memorandum. EPA finds that the future emissions levels in 2010, 2012, and 2014 are expected to be similar to or less than the emissions levels in 2002. In the event that a future 8-hour ozone monitoring reading in this area is found to violate the 1997 ozone standard, the contingency plan section of the maintenance plan includes measures that will be promptly implemented to ensure that this area returns to maintenance of the 1997 ozone standard. Please see section (d) Contingency Plan, below, for additional information related to the contingency measures.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in attainment with the 1997 8-hour ozone standard for the 10-year period following the effective date of designation as unclassifiable/attainment. The end projection year for the maintenance plan for the Cherokee County Area is 2014. As discussed in section (a) Attainment Inventory above,

South Carolina identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2002. South Carolina projected VOC and NO_x emissions for the years 2010, 2012, and 2014 in the Cherokee County Area; and EPA finds that the future emissions levels in those years are expected to be similar to or below the emissions levels in 2002.

South Carolina's SIP revisions also rely on several air quality measures that will provide for additional 8-hour ozone emissions reductions in the Cherokee County Area. These measures include the implementation of the following, among others: (1) Tier 2 Motor Vehicle Emissions and Fuel Standards, (2) Heavy-Duty Gasoline and Diesel Highway Vehicles Standard, (3) Large Nonroad Diesel Engines Rule, (4) Nonroad Spark Ignition Engines and Recreational Engines Standard, (5) NO_x SIP Call, (6) New Source Review (NSR) program, (7) Reasonably Available Control Measures (RACM) (8), and (9) Clean Air Interstate Rule (CAIR) ².

(c) *Ambient Air Quality Monitoring.* The table below shows design values for the Cherokee County Area. The ambient ozone monitoring data was collected at sites that were selected with assistance from the U.S. EPA and are considered to be representative of the area of highest concentration.

There is one monitor in the Cherokee County Area. There were no recent design values above the 1997 0.08 ppm standard and it is anticipated that the monitors will remain at current locations, unless otherwise allowed to be removed in consultation with the EPA and in accordance with the 40 CFR part 58.

TABLE 2—DESIGN VALUES FOR 8-HOUR OZONE

Year	Cherokee County (in ppm)
2000–2002	0.087
2001–2003	0.084
2002–2004	0.080
2003–2005	0.075

² Despite the legal status of CAIR as remanded, many facilities have already installed or are continuing with plans to install emission controls that may benefit the Cherokee County Area.

TABLE 2—DESIGN VALUES FOR 8-HOUR OZONE—Continued

Year	Cherokee County (in ppm)
2004–2006	0.074
2005–2007	0.073
2006–2008	0.074

Based on the Table above, the most recent design values identified demonstrate attainment with the 1997 8-hour ozone NAAQS. Further, these design values indicate that the Cherokee County Area is expected to continue attainment of the 1997 8-hour ozone NAAQS. The attainment level for the 1997 8-hour ozone standard is effectively 0.084 ppm. However, in the event that a design value at the Cherokee County Area monitor exceeds the 1997 8-hour ozone standard of 84 parts per billion, the Contingency Plan included in South Carolina's maintenance plan submittal includes contingency measures which will be promptly implemented in section (d) Contingency Plan, below.

(d) *Contingency Plan.* The section 110(a)(1) maintenance plans include contingency provisions to promptly correct any violation of the 1997 8-hour ozone NAAQS that occurs. The contingency indicator for the Cherokee County Area maintenance plan is based on updates to the emission inventories. The triggering mechanism for activation of contingency measures is a ten percent or greater increase in emissions of either VOC or NO_x based on the 2002 emissions inventory. In this maintenance plan, if contingency measures are triggered, South Carolina is committing to implement the measures as expeditiously as practicable, but no longer than twenty-four months. Some of the contingency measures include: (1) Reasonably Available Control Technology (RACT) for NO_x and VOC on existing stationary sources; (2) implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations ³; (3) alternative fuel

³ At this time, there is not an approved method for determining emission reductions from a Diesel Inspection and Maintenance program. Therefore, there is no technical basis to award emission credits

Continued

programs for fleet vehicles⁴; (4) gas can and lawnmower replacement programs; (5) voluntary engine idling reduction programs; (6) implementation of additional control in upwind areas; and (7) other measures deemed appropriate at the time as a result of advances in control technologies.

These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Cherokee County Area will depend, in part, on the air quality measures discussed previously (*see* section II). In addition, South Carolina commits to verify the 1997 8-hour ozone status in each maintenance plan through annual and periodic evaluations of the emissions inventories. In the annual evaluation, South Carolina will review VOC and NOX emission data from stationary point sources. During the periodic evaluations (every three years), South Carolina will update the emissions inventory for all emissions source categories, and compare the updated emissions inventory data to the projected 2010, 2012, and 2014 attainment emissions inventories to verify continued attainment of the 1997 8-hour ozone standard.

III. Final Action

Pursuant to section 110 of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone standard in Cherokee County, South Carolina which was submitted by South Carolina on December 13, 2007, and ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2014. EPA has evaluated South Carolina's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a

for a heavy duty diesel inspection and maintenance program in the SIP. However, we do not want to preclude future technical changes that may make awarding such emission credits possible. If it is necessary to implement contingency measures for this area, South Carolina, in coordination with EPA, will evaluate the feasibility of this program as a contingency measure at that time. If a technical basis for emission credits is not available, other contingency measures will need to be implemented.

⁴ If this contingency measure is necessary it will be considered and evaluated in accordance with Section 211(4)(A).

separate document that will serve as the proposal to approve the SIP revision should adverse comment be filed. This rule will be effective on July 31, 2009 without further notice unless the Agency receives adverse comment by July 1, 2009. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on July 31, 2009 and no further action will be taken on the proposed rule.

IV. 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 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 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 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).

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 July 31, 2009. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 15, 2009.

Beverly H. Banister,

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 PP—South Carolina

■ 2. Section 52.2120(e) is amended by adding a new entry for the “Cherokee County 8-Hour Ozone Section 110(a)(1) Maintenance Plan for the 1997 8-hour ozone standard” to read as follows:

§ 52.2210 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	Effective date	EPA approval date	Explanation
* Cherokee County 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard.	* Cherokee County	* 12/13/2007	* July 31, 2009. [Insert citation of publication].	*

[FR Doc. E9-12546 Filed 5-29-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-0836-200739(f); FRL-8911-6]

Approval and Promulgation of Implementation Plans; Florida; Removal of Gasoline Vapor Recovery From the Southeast Florida Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the State Implementation Plan (SIP) submitted by the State of Florida on May 31, 2007, for the purpose of removing Stage II vapor control requirements for new and upgraded gasoline dispensing facilities in Dade, Broward, and Palm Beach Counties (hereafter referred to as the “Southeast Florida Area”), and to phase out Stage II requirements for existing facilities in those counties. In addition, EPA is approving this SIP revision which requires new and upgraded gasoline dispensing facilities and new bulk gasoline plants statewide to employ Stage I vapor control systems, and phases in Stage I vapor control requirements statewide for existing gasoline dispensing facilities. This final rule addresses a comment made on EPA’s proposed rulemaking previously published for this action.

DATES: This rule will be effective July 1, 2009.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2007-0836. All documents in the electronic docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Twunjala Bradley, 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) 562-9352. Ms. Bradley can also be reached via

electronic mail at bradley.twunjala@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. EPA Guidance and Clean Air Act (CAA) Requirements
- III. Today’s Action
- IV. Comment and Response
- V. Final Action
- VI. Statutory and Executive Order Review

I. Background

On January 6, 1992, EPA designated the Southeast Florida Area as a “moderate” ozone nonattainment area for the 1-hour ozone standard (56 FR 56694). As a result of the designation, the State of Florida was required to implement Stage II vapor recovery. Pursuant to the requirements of section 182(b)(3) of the CAA, Florida developed Florida Administrative Code (F.A.C.) Rule 62-252.400, “Gasoline Dispensing Facilities-Stage II Vapor Recovery.” The rule established that new gasoline dispensing facilities built after November 15, 1992, were required to employ Stage II systems upon start-up; and existing facilities were required to install Stage II systems by specific dates ranging from June 30, 1993, to November 15, 1994. This State rule was submitted as part of Florida’s SIP and approved by EPA effective April 25, 1994 (59 FR 13883).

On November 8, 1993, Florida submitted to EPA an ozone redesignation request and maintenance plan for the Southeast Florida Area for attainment status for the 1-hour ozone standard. This request was due to the State implementing all measures required for moderate ozone