

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FL-61-2-9823a; FRL -6352-3]

Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to the Florida State Implementation Plan**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving a revision to the Florida State Implementation Plan (SIP) submitted on November 22, 1994, by the State of Florida through the Florida Department of Environmental Protection (FDEP). This revision adds Chapter 62-204, Air Pollution Control—General Provisions, to the Florida SIP.

DATES: This direct final rule is effective on August 16, 1999 without further notice, unless EPA receives adverse comments by July 16, 1999. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address comments on this action to Joey LeVasseur at the EPA, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Copies of documents related to this action are available for the public to review during normal business hours at the locations below. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL61-2-9823. The Region 4 office may have additional documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at 404/562-9035 (E-mail: levasseur.joey@epa.gov).

SUPPLEMENTARY INFORMATION: The State of Florida through the FDEP submitted

revisions to the Florida SIP on November 22, 1994. These revisions consist of a new Chapter 62-204, Air Pollution Control—General Provisions, that includes six new sections: “Purpose and Scope,” “Definitions,” “Approved State Implementation Plan,” “Public Notice and Hearing Requirements,” “General Conformity,” and “Transportation Conformity.”

Three of these sections, however, are not being approved into the SIP at this time. Section 62-204.300, “Approved State Implementation Plan,” simply identifies the SIP for users of state rules and was not intended as a SIP revision. Section 62-204.500, “General Conformity,” and Section 62-204.600, “Transportation Conformity,” are not being approved here and will be addressed in a separate action.

The revisions being approved in this action are discussed below.

Section 62-204.100, Purpose and Scope—This section is simply an introductory paragraph that identifies the purpose of Chapter 62-204 and does not have any regulatory significance.

Section 62-204.200, Definitions—This section defines various terms that will be used in this Chapter whose definition might otherwise be unclear.

Section 62-204.400, Public Notice and Hearing Requirements for State Implementation Plan Revisions—This section sets forth the public notice and hearing requirements for the State to make an official SIP submittal. This section was previously approved as Section 17-210.350(3), but has been moved to Chapter 62-204 and revised for clarity.

Final Action

EPA is approving the aforementioned changes to the SIP without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in this issue of the **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective August 16, 1999 without further notice unless the agency receives relevant adverse comments by July 15, 1999.

If the 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. The EPA will not institute a second comment period on the rule. Only parties interested in commenting should do so at this time.

If no such comments are received, the public is advised that this rule will be effective on August 16, 1999 and no further action will be taken on the proposed rule.

Administrative Requirements**A. Executive Order 12866**

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled Regulatory Planning and Review.

B. Executive Order 13045

The final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an “economically significant” action under Executive Order 12866.

C. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State,

local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Submission to Congress and the Comptroller General

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 rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

F. Petitions for Judicial Review

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 August 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 9, 1998.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

Note: This document was received at the Office of the Federal Register on June 9, 1999.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart K—Florida

2. Section 52.536 (redesignated from § 52.520, effective June 16, 1999) is amended by adding paragraph (c)(100) to read as follows:

§ 52.536 Original identification of plan section.

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(c) * * *

(100) Revisions to Chapter 62–204, Stationary Sources—General Requirements, of the Florida SIP submitted by the Department of Environmental Protection on November 22, 1994.

(i) *Incorporation by reference.* Sections 62–204.100, 62–204.200, and 62–204.400 of the Florida SIP, effective November 30, 1994.

(ii) *Other material.* None.

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[FR Doc. 99–15012 Filed 6–15–99; 8:45 am]

BILLING CODE 6560–50–P