

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FI-071-9810a; FRL-6015-4]

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

SUMMARY: EPA is approving a revision to the State of Florida's State Implementation Plan (SIP) submitted to EPA on December 10, 1996, through the Florida Department of Environmental Protection. The amendment adds perchloroethylene to the list of chemicals excluded from the definition of volatile organic compounds (VOC). The amendment also corrects vague language in various definitions. The revision moves conditions relating to the Small Business Assistance Program (SBAP) from Chapter 62-202 to Rule 62-210.220.

DATES: This final rule is effective July 27, 1998 unless adverse or critical comments are received by June 26, 1998. If the final rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Karla L. McCorkle at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL-071-9810. The Region 4 office may have additional background 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

Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

FOR FURTHER INFORMATION CONTACT: Karla L. McCorkle at 404/562-9043.

SUPPLEMENTARY INFORMATION: On December 10, 1996, the State of Florida through the Florida Department of Environmental Protection submitted a revision to the Florida SIP. The revision adds perchloroethylene to the list of chemicals excluded from the definition of VOC. This amendment also corrects vague language in the definitions of "Acid Mist," "Commence Construction," "Gas/Gas Method," and "Liquid/Gas Method," as directed by Florida's Joint Administrative Committee. The revision moves provisions relating to the SBAP from Chapter 62-202 to Rule 62-210.220. The definition "Small Business Stationary Source" is amended for clarification.

The specific rule revisions from the December 10, 1996, submittal that are being approved in this action are discussed below:

Exclusion of Perchloroethylene to VOC Definition

Rule 62-210.200—The amendment adds "perchloroethylene" to the list of chemicals excluded from the definition of "Volatile Organic Compounds." This revision makes the definition of VOC in the Florida SIP consistent with the EPA definition.

Definitions

Rule 62-210.200—Throughout this section, the following definitions have been amended to correct vague language: "Acid Mist," "Commence Construction," "Gas/Gas Method," and "Liquid/Gas Method." In definition (1), "Acid Mist," a reference to Rule 62-204.800 is added. In definition (77), "Commence Construction," a completion time is clarified. In definition (137), "Gas/Gas Method," references to the prescribed methods in Rule 62-297.450 (2)(a) and Rule 62-297.450 (2)(c) are added. In definition (167), "Liquid/Gas Method," references to the prescribed methods in Rule 62-297.450 (2)(b) and Rule 62-297.450 (2)(d) are added.

Small Business Assistance Program

Rule 62-210.220—Provisions relating to the SBAP in the Division of Air Resources Management are moved from Chapter 62-202 to Rule 62-210.220.

Rule 62-210.200—The definition "Small Business Stationary Source," is amended to make it clear that facilities may be classified as small business stationary sources either by definition or by petition pursuant to the rule.

Final Action

EPA is approving the aforementioned changes to the SIP. The Agency has reviewed this request for revision of the

Federally approved SIP for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, 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 July 27, 1998 without further notice unless the Agency receives relevant adverse comments by June 26, 1998.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did 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 proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 27, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements**A. Executive Order 12866**

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

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 impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. 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 Clean Air Act 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) and 7410(k)(3).

C. 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.

D. Submission to Congress and the General Accounting Office

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).

E. 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 July 27, 1998. 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).)

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks. Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that is (1) likely to be "economically significant" as defined under Executive Order 12866, and (2) the Agency has reason to believe that the environmental health or safety risk addressed by the rule may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks" because this is not an "economically significant" regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 10, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, 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, is amended by revising paragraph (c)(87) to read as follows:

§ 52.520 Identification of plan.

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(c) * * *

(87) Revisions to the Florida State Implementation Plan submitted by the Department of Environmental Protection on December 10, 1996.

(i) Incorporation by reference. Section 62-210.200(1), (29)(g), (77)(a), (b), (137), (145)(a)29., (167), (259)(a)3-5 and (b), (309)(y), and 62-210.220 of the Florida SIP effective October 15, 1996.

(ii) Other material. None.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6014-5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection; Washoe County District Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Nevada Division of Environmental Protection (NDEP) and the Washoe County District Health Department (WCDHD) in Nevada. EPA is also approving WCDHD's program for receiving delegation of unchanged NESHAPs applicable to sources not subject to Title V of the 1990 Clean Air Act Amendments. The preamble outlines the process that NDEP and WCDHD will