

Monuments Commission, Suite 500, Courthouse Plaza II, 2300 Clarendon Boulevard, Arlington, VA 22201; telephone: (703) 696-6908; FAX: (703) 696-6666.

**SUPPLEMENTARY INFORMATION:** In 1992, OGE issued a final rule setting forth uniform Standards of Ethical Conduct and an interim final rule on financial disclosure for executive branch departments and agencies of the Federal Government and their employees. Those two executive branch-wide regulations, as corrected and amended, are codified at 5 CFR parts 2634 and 2635. Together those regulations have superseded the old ABMC regulations on employee responsibilities and conduct, which were codified at 36 CFR part 400 (and were based on prior OPM standards). Accordingly, the ABMC is removing its superseded regulations and adding in place thereof a new section containing residual cross-references to the new provisions at 5 CFR parts 2634 and 2635. In addition, the ABMC is adding to that section a reference to the specific executive branch-wide restrictions on gambling, safeguarding the examination process and conduct prejudicial to the Government which are set forth in 5 CFR part 735, as issued by OPM in 1992.

#### List of Subjects in 36 CFR Part 400

Conflict of interests, Government employees.

■ For the reasons set forth in the preamble, American Battle Monuments Commission is revising 36 CFR part 400 to read as follows:

#### PART 400—EMPLOYEE RESPONSIBILITIES AND CONDUCT

**Authority:** 5 U.S.C. 7301; 36 U.S.C. 2103.

##### § 400.1 Cross-references to employees' ethical conduct standards, financial disclosure regulations and other conduct rules.

Employees of the American Battle Monuments Commission are subject to the executive branch-wide standards of ethical conduct and financial disclosure regulations at 5 CFR parts 2634 and 2635 as well as the executive branch-wide employee responsibilities and conduct regulations at 5 CFR part 735.

Dated: March 30, 2004.

**Theodore Gloukhoff,**

Director, Personnel and Administration.

[FR Doc. 04-7675 Filed 4-5-04; 8:45 am]

BILLING CODE 6120-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R04-OAR-2003-FL-0001-200414(a); FRL-7643-3]

#### Approval and Promulgation of Implementation Plans: Florida Broward County Aviation Department Variance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to State Implementation Plan (SIP) submitted by the State of Florida for the purpose of a department order granting a variance from Rule 62-252.400 to the Broward County Aviation Department. EPA believes that this proposed revision to the SIP is approvable based on the June 23, 1993, EPA policy memorandum entitled, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Nonattainment Areas* which indicates that a Stage II program is not a mandatory requirement for areas classified "moderate" or below, upon EPA's promulgation for On-board Refueling Vapor Recovery systems.

**DATES:** This direct final rule is effective June 7, 2004, without further notice, unless EPA receives adverse comment by May 6, 2004. If adverse comment is received, EPA 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:** Comments may be submitted by mail to: 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. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections III.B.1. through 3. of the **SUPPLEMENTARY INFORMATION** section.

**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 also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Analysis of State's Submittal

Florida Administrative Code (F.A.C.) Rule 62-252.400, requires Stage II vapor recovery systems for all gasoline dispensing facilities located in Broward, Dade, and Palm Beach counties which commence construction or undertake a significant modification after November 15, 1992, prior to dispensing 10,000 gallons or more in any one month. The purpose of the Stage II vapor recovery requirement in Rule 62-252.400, F.A.C. is to recover 95% by weight of vapors displaced from a vehicular fuel tank during refueling.

Under Section 120.542, of the Florida Statutes, the department may grant a variance when the person subject to a rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means, or when application of a rule would create a substantial hardship or violate principles of fairness.

On April 22, 2003, Broward County Aviation Department submitted a petition for variance from the requirements of Rule 62-252.400, F.A.C. for a proposed consolidated rental car facility fueling area at the Ft. Lauderdale-Hollywood International Airport. The petitioner has estimated that 100% of the vehicles to be refueled at the consolidated rental car facility fueling area will be new vehicles equipped with on-board refueling vapor recovery (ORVR) technologies. The design recovery efficiency of installed ORVR systems is 95%. Further, the petitioner estimates the cost of installation of Stage II vapor recovery will be \$250,000 to \$370,000 initially with additional cost for maintaining the system. Given the estimated 100% use of the onboard refueling vapor recovery technologies for all vehicles and the high cost of complying with rule 62-252.400 F.A.C., the department has determined that the health and environmental concerns addressed by the underlying statute will be met without Stage II vapor recovery systems. Therefore the department has issued an Order Granting Variance to Broward County Aviation Department, relieving the county from requirements of Rule 62-252.400, F.A.C. Since this rule has previously been approved into Florida's SIP, the department is requesting approval of this variance as a revision to the SIP. EPA believes that this proposed revision to the SIP is approvable based on the June 23, 1993, EPA policy memorandum entitled, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Nonattainment Areas* which indicates that a Stage II program is not a

mandatory requirement for areas classified "moderate" or below, upon EPA's promulgation for On-board Refueling Vapor Recovery systems. States were required to adopt Stage II rules for such areas under section 182(b)(3). However, 202(a)(6) states that "the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards [*i.e.*, onboard controls] \* \* \*" Section 202 On-board Refueling Vapor Recovery regulations were promulgated by EPA on April 6, 1994, and the requirements of these regulations are currently being phased-in.

In this circumstance, EPA does believe that a determination of "widespread" use is necessary to provide for the variance for Stage II requirements for this area or the facility in question. In accordance with the June 23, 1993, EPA policy memorandum, the State has the option to implement a Stage II program in this area, and as such, the State can provide this variance for the consolidated rental car facility.

## II. Final Action

EPA is approving the aforementioned changes to the State of Florida because they are consistent with the Clean Air Act and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 adverse comments be filed. This rule will be effective June 7, 2004, without further notice unless the Agency receives adverse comments by May 6, 2004.

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. 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 June 7, 2004, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

## III. General Information

### A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under R04-OAR-2003-FL-0001. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing 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 contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. *Electronic Access.* An electronic version of the public docket is available through EPA's Regional Material EDocket (RME) system, a part of EPA's electronic docket and comment system. You may access RME at <http://docket.epa.gov/rmepub/index.jsp> to review associated documents and submit comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number.

You may also access this **Federal Register** document electronically through the Regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other

information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

3. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency, Florida Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400.

### B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking R04-OAR-2003-FL-0001" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in Regional Material EDocket. 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.

i. *Regional Material EDocket (RME).* Your use of EPA's RME to submit

comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to RME at <http://docket.epa.gov/rmepub/index.jsp>, and follow the online instructions for submitting comments. To access EPA's RME from the EPA Internet Home Page, select "Information Sources," "Dockets," "EPA Dockets," "Regional Material EDocket." Once in the system, select "quick search," and then key in RME Docket ID No. R04-0AR-2003-FL-0001. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by electronic mail (e-mail) to [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov), please include the text "Public comment on proposed rulemaking R04-0AR-2003-FL-0001." in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Regulations.gov*. Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iv. *Disk or CD-ROM*. You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments to: 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. Please include the text "Public comment on proposed rulemaking R04-0AR-2003-FL-0001" in the subject line on the first page of your comment.

3. Deliver your comments to: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, 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, 9:00 to 3:30, excluding Federal holidays.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### **IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997),

because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. 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 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 June 7, 2004. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 24, 2004.

**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 adding a new entry at the end of the table in paragraph (d) for "Broward County Aviation Department" to read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit number	State effective date	EPA approval date	Explanation
* * * * *				
Broward County Aviation Department	.....	8/15/03	4/6/04 [Insert citation of publication]	Order Granting Variance from Rule 62-252.400

\* \* \* \* \*  
[FR Doc. 04-7645 Filed 4-5-04; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**Gasoline Volatility Standard for the Denver/Boulder Area**

*CFR Correction*

■ In Title 40 of the Code of Federal Regulations, Parts 72 to 80, revised as of

July 1, 2003, in § 80.27, in the table in paragraph (a)(2), the entry for Colorado and footnote 2 are correctly reinstated to read as follows:

**§ 80.27 Controls and prohibitions on gasoline volatility.**

(a) \* \* \*

(2) \* \* \*

**APPLICABLE STANDARDS<sup>1</sup> 1992 AND SUBSEQUENT YEARS**

State	May	June	July	August	September
* * * * *					
Colorado <sup>2</sup>	9.0	7.8	7.8	7.8	7.8

<sup>1</sup> Standards are expressed in pounds per square inch (psi).

<sup>2</sup> The standard for 1992 through 2001 in the Denver-Boulder area designated nonattainment for the 1-hour ozone NAAQS in 1991 (see 40 CFR 81.306) will be 9.0 for June 1 through September 15.