



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0238; FRL– 9762-6]

Approval and Promulgation of Implementation Plans; South Carolina 110(a)(1) and (2)
Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air
Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: EPA published in the Federal Register of August 1, 2012, a final rule approving the State Implementation Plan (SIP) submissions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), as demonstrating that the South Carolina SIP met certain requirements of the Clean Air Act (CAA or the Act) for the 1997 annual and 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS). This rulemaking corrects several errors identified in the August 1, 2012, final rule.

DATES: Effective on [insert date of publication in the Federal Register].

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: This action corrects inadvertent omissions in the August 1, 2012, final rulemaking and its associated regulatory text section. Specifically, EPA is correcting the final rule to expressly indicate that the South Carolina Code Annotated Sections described in the June 6, 2012, proposed rule are being incorporated into the South Carolina SIP.¹ *See* 77 FR 33386. The August 1, 2012, final rule also failed to list these code sections in the regulatory text. Accordingly, this rulemaking corrects that inadvertent omission by adding S.C. Code Ann. Sections 8–13–100(31), 8–13–700(A) and (B), and 8–13–730 to the regulatory text of the August 1, 2012, final rule.

In addition, EPA is correcting the footnote on page 45492 of the final rule which inadvertently listed “April 13, 2012,” as the date of South Carolina’s SIP revision. The correct date for South Carolina’s SIP revision is April 3, 2012. Through today’s notice, EPA is hereby correcting the footnote on page 45492 of the August 1, 2012, final rule to reflect the correct date.

¹ The sections adopted into the SIP are S.C. Code Ann. Sections 8-13-100(31); 8-13-700(A) and (B); and 8-13-730. These sections were adopted into the SIP to satisfy CAA section 128 state board requirements made applicable to South Carolina’s infrastructure SIP by section 110(a)(2)(E)(ii) of the CAA. *See* EPA’s June 6, 2012, proposed rulemaking for more information as to how these statutes meet the applicable CAA section 128 requirements. 77 FR 33380, 33386.

Finally, EPA is correcting the statement on page 45493 of the August 1, 2012, final rule that stated “[t]oday’s action is not approving any specific rule, but rather making a determination that South Carolina’s already approved SIP meets certain CAA requirements.” Today’s rule removes this sentence from the August 1, 2012, final rule and replaces it with a sentence that reads: “EPA is making a determination that South Carolina’s SIP meets certain CAA requirements.” *See* 77 FR 45492.

EPA has determined that today’s action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because today’s action to correct an inadvertent regulatory text omission included with EPA’s August 1, 2012, final rule is consistent with the substantive revisions to the South Carolina SIP described in the proposal to approve certain state statutes into the South Carolina SIP as addressing the section 110(a)(2)(E)(ii) state board requirements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA’s analysis or action to approve certain state statutes as addressing the state board requirements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS into the South Carolina SIP. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of

publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s action merely corrects an inadvertent omission for the regulatory text of a prior rulemaking by listing these state statutes in the regulatory text for the South Carolina SIP. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

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 corrects an inadvertent omission for the regulatory text of EPA’s August 1, 2012, final rule to approve certain state statutes as addressing the state board requirements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS into the South Carolina SIP, 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 merely corrects an inadvertent omission for the regulatory text of EPA's August 1, 2012, final rule to approve certain state statutes as addressing the state board requirements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS into the South Carolina SIP, 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 (Public Law 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 rule 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 rule merely corrects an inadvertent omission for the regulatory text of EPA's August 1, 2012, final rule to approve certain state statutes as addressing the state board requirements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS into the South Carolina SIP, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 addition, this rule does not involve technical standards, 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 also 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. section 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

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* CAA section 307(b)(2).

Dated: December 7, 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 PP—South Carolina

2. Section 52.2120(c), is amended by adding by adding in numerical order a new entry for “Ethics Reform Act” at the end of the table to read as follows:

§ 52.2120 Identification of plan.

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(c) * * *

Air Pollution Control Regulations for South Carolina

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
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S.C. Code Ann.	Ethics Reform Act			
Section 8-13-100(31)	Definitions	1/1/1992	8/1/2012	77 FR 45492

Section 8-13-700(A) and (B)	Use of official position or office for financial gain; disclosure of potential conflict of interest	1/1/1992	8/1/2012	77 FR 45492
Section 8-13-730	Membership on or employment by regulatory agency of person associated with regulated business	1/1/1992	8/1/2012	77 FR 45492

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