



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0133; FRL-9930-86-Region 4]

**Approval and Promulgation of Implementation Plans; Florida;
Combs Oil Company Variance**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Florida through the Department of Environmental Protection (DEP) on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. EPA is proposing approval of Florida's July 31, 2009, SIP revision.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0133, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2015-0133,” Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation 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, Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2015-0133. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website 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

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 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 www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation 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:

I. Background

The Florida Rule 62-296.418 requires bulk gasoline plants which began operation on or after August 1, 2007, to install and operate vapor collection and control systems on their loading racks. The rule became effective on May 9, 2007, and was submitted to EPA as a proposed SIP revision on May 31, 2007. EPA approved the SIP revision on June 1, 2009 (74 FR 26103).

On May 30, 2007, Combs Oil Company submitted a petition for variance from the requirements of Rule 62-296.418(2)(b)2, Florida Administrative Code (F.A.C.), for its new bulk gasoline plant. The company operates an existing bulk gasoline plant in Naples, Florida. The new plant would replace the existing plant and be constructed at a different site in the area. However, between July 2005 and January 2007, the company experienced substantial construction delays beyond its control due to the effects of hurricanes, both in Florida and along the upper Gulf Coast. The company experienced delays in obtaining steel for the office and loading/tank areas as well as the rationing of steel rebar and concrete supplies. Combs Oil Company had invested \$67,053 in equipment and \$40,235 in construction costs for the support structure of the loading rack prior to the DEP's initiation of rule 62-296.418(2)(b)2, requiring a vapor collection and control system on the loading racks of new bulk gasoline plants. However, the company was unable to complete construction and relocation of its plant by August 1, 2007, due to the aforementioned construction delays.

Under Section 120.542 of the Florida Statutes, the DEP 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. The DEP determined that Combs Oil Company had demonstrated that principles of fairness would be violated because the delays in building and relocating to the new facility, related to hurricanes, were beyond the control of the company. Therefore, the DEP issued an Order Granting Variance to Combs Oil Company on August 20, 2008, relieving the company from the requirements of Rule 62-296.418(2)(b)2., F.A.C., for its proposed new facility.

II. Analysis of State Submittal

Section 110(l) of the CAA requires that SIP revisions must not interfere with any applicable requirement concerning attainment and reasonable further progress. Like the facility it is replacing, the new Combs Oil facility is located in Collier County in Southwest Florida. Collier County has never been designated nonattainment for any air pollutant and, thus, is not subject to any reasonable further progress requirements. Air quality monitoring is currently available in the county for ozone. A comparison of the Collier County data in relation to the National Ambient Air Quality Standards for ozone is indicating that value is well within the compliance level. The ozone design value for 2011-2013 in Collier County is 0.060 parts per million (ppm).

The proposed SIP revision involves emissions of volatile organic compounds (VOC), a precursor to ozone. For fine particulate matter (PM_{2.5}), County-level nitrogen oxide, volatile organic compound and ammonia emissions were not considered because ambient PM_{2.5}

concentrations in the southeastern U.S. tend to be impacted most significantly by emissions of direct PM_{2.5} emissions and SO₂ emissions. As a result of the time involved in the chemical and physical transformations of the precursor emissions, the primary impact of the source cannot be explicitly determined but can be evaluated in terms of its addition to the county and regional emissions from all sources in this area.

The proposed source is currently operating in the county and is simply moving a relatively short distance (1.6 miles) within the same general area. Emissions of VOC from gasoline operations at the relocated source are estimated to be the same as VOC emissions at the existing facility, even when the increased storage capacity at the new location is considered. Specifically, VOC emissions are estimated to be less than 3 tons per year – minor in comparison to the county total of 31,816 tons per year. Since ozone concentration levels are currently well below the ambient air quality standard of 0.075 ppm, and emissions of VOC will not increase as a result of the relocation of this source, EPA has preliminarily determined that the variance will not interfere with the area's ability to continue to maintain the ozone standards. Thus, EPA has preliminarily determined that the changes are consistent with the Clean Air Act (CAA or Act).

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the “Combs Oil Company Source Specific Variance” order granting variance on August 20, 2008. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy

at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Final Action

EPA is proposing to approve a source specific SIP revision submitted by the Florida DEP on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. It should be noted that approval of the variance for Combs Oil Company only relieves them from the requirements of Rule 62-296.418(2)(b)2 F.A.C., for its new bulk gasoline plant, it does not relieve them from any requirements established in 40 CFR parts 60 and 63.

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. *See* 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 proposed action merely approves a state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 (Public Law 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 6, 2015.

Heather McTeer Toney

Regional Administrator,

Region 4.

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