

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04-OAR-2003-SC-0001-200416 (a); FRL-]

Approval and Promulgation of Implementation Plans

South Carolina: Source Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the South Carolina State Implementation Plan (SIP) revision submitted by the South Carolina Department of Health and Environmental Control on September 4, 2002, and July 25, 2003. These revisions consist of the establishment, standardization, and clarification of source testing requirements. South Carolina is also changing the title of Regulation 62.1 to reflect that it contains general provisions.

DATES: This direct final rule is effective [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. 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: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04-OAR-2003-SC-0001, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions

for submitting comments.

2. Agency Website: <http://docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.
3. E-mail: ward.nacosta@epa.gov.
4. Fax: 404-562-9019.
5. Mail: "R04-OAR-2003-SC-0001", 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.
6. Hand Delivery or Courier. Deliver your comments to: Nacosta C. Ward, 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, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to RME ID No. R04-OAR-2003-SC-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, 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

information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME website and the federal regulations.gov website are “anonymous access” systems, 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 RME or 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.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy 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, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, 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) 562-9140. Ms. Ward can also be reached via electronic mail at ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Analysis of State's Submittal

On September 4, 2002 and July 25, 2003 the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina State Implementation Plan. These revisions pertain to source testing requirements for all affected source owners or operators and source testers. The purpose of these revisions is to restore accuracy and completeness of the regulations incorporated by reference into the SIP and to clarify language specifying authorization for proposing alternate test methods.

Description of revisions submitted as of September 4, 2002

- a. The title of Regulation 61-62.1 is being changed to "Definitions and General Requirements" to identify that the regulation contains general provisions.
- b. Section IV - Source Tests, is being added to Regulation 61-62.1. Regulation 61-62.5, Standard No. 1, Section VII - Source Test Requirements and Standard No. 4, Section XIII - Source Test Requirements are being incorporated into Regulation 61-62.1, Section IV -

Source Tests. Regulation 61-62.5, Standard No. 1, Section VII and Standard No. 4, Section XIII are being reserved for future use. Other amendments to Regulation 61-62.1 specify requirements for site-specific test plans including: a detailed discussion of the test objectives, accessibility and representativeness of sampling locations, process descriptions, in-house testing protocol, all sampling and analytical procedures, internal quality assurance/quality control, data reduction and reporting procedures, and safety considerations.

- c. Amendments were made to Regulation 61-62.1, Section II - Permit Requirements and Regulation 61-62.5, Standard No. 1, Section VI - Periodic Testing to specify that the responsible official for ensuring the performance of source tests is an owner or operator of stationary sources and to provide a requirement for sources to comply with the new source test section, 61-62.1 Section IV - Source Tests.
- d. Typographical corrections and clarifications were made to Regulation 61-62.5 for formatting consistency.

Description of revisions submitted as of July 25, 2003

- e. Regulation 61-62.1 Definitions and General Requirements, Section IV - Source Tests is being amended to clarify the language concerning alternate methods of source testing. These revisions address the comments received during the comment period.
- f. The words "Section I" were removed from Section II - Permit Requirements for formatting consistency with Regulation 61-62.5, Standard No. 7.

II. Final Action

EPA is approving the aforementioned changes to the State of South Carolina SIP because they are consistent with the CAA 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 [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

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 [Insert date 60 days from date of publication] 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. 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 (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 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. 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.

section 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 [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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: 7-27-2007
7-27-04


A. Stanley Meiburg

Acting, Regional Administrator,

Region 4.

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 PP – South Carolina

2. Section 52.2120(c) is amended:

(a) by revising the entry for “Regulation No. 62.1.”

(b) under Regulation No. 62.1, by revising the entry for “Section II.”

(c) under Regulation 62.5, Standard No. 1, by revising the entries for “Sections VI” and “Section VII.”

(d) under Regulation 62.5, Standard No. 4, by revising the entries for “Sections XII” and “Section XIII.”

(e) under Regulation 62.5, Standard No. 5, Section I, by adding the entry for “Part E.”

(f) under Regulation 62.1, by adding the entry for “Section IV.”

§ 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
Regulation No. 62.1 Definitions and General Requirements				

Regulation No. 62.1	Definitions and General Requirements	06/26/98	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
* *	* *	*	*	*
Section II	Permit Requirements	06/27/03	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
* *	* *	*	*	*
Section IV	Source Tests	06/27/03	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
* *	* *	*	*	*
Regulation No. 62.5 Air Pollution Control Standards				
Standard No. 1 Emission from Fuel Burning Operations				
Section VI	Periodic Testing	06/26/98	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Section VII	Reserved			
* *	* *	*	*	*
Standard No. 4 Emission from Process Industries				
* *	* *	*	*	*

Section XII	Periodic Testing	06/26/98	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Section XIII	Reserved			
Standard No. 5 Volatile Organic Compounds				
Section I General Provisions				
Part E	Volatile Organic Compound Compliance Testing	06/26/98	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
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