



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2012-0814 & EPA-R04-OAR-2012-0692; FRL– 9908-43-Region 4]**

**Approval and Promulgation of Implementation Plans; Florida; Infrastructure Requirement (Visibility) for the 1997 and 2006 PM, and 2008 8-Hour Ozone NAAQS**

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 18, 2008, and September 23, 2009, the Environmental Protection Agency (EPA) received state implementation plan (SIP) submissions from the State of Florida, through the Florida Department of Environmental Protection (FDEP), regarding the infrastructure elements for the 1997 annual Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) and 2006 24-hour PM<sub>2.5</sub> NAAQS, respectively. On October 31, 2012, EPA received a SIP submission from FDEP regarding the infrastructure elements for the 2008 8-hour ozone NAAQS. Additionally, on October 22, 2013, FDEP supplemented the three aforementioned infrastructure SIP submissions. EPA is proposing to approve the elements of these infrastructure SIP submissions, as supplemented on October 22, 2013, as they relate to the protection of visibility in other states.

**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 related to the 1997 and 2006 PM<sub>2.5</sub> SIP submissions, identified by Docket ID No. EPA-R04-OAR-2012-0814, and related to the 2008 8-hour ozone

SIP submission, identified by Docket ID No. EPA-R04-OAR-2012-0692, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-RDS@epa.gov](mailto:R4-RDS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2012-0814,” for the 1997 and 2006 PM<sub>2.5</sub> SIP submissions or “EPA-R04-OAR-2012-0692” for the 2008 8-hour ozone SIP submission, 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.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, 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. 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-2012-0814 for the 1997 and 2006 PM<sub>2.5</sub> SIP submissions, or to Docket ID No. EPA-R04-OAR-2012-0692 for the 2008 8-hour ozone SIP submission. 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](http://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](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://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](http://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](http://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](http://www.regulations.gov) 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 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 or Nacosta 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. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov) or via telephone at (404) 562-9043. Ms Ward can be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov) or via telephone at (404) 562-9140.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On July 18, 1997 (62 FR 38652), EPA established an annual PM<sub>2.5</sub> NAAQS of 15.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a 24-hour NAAQS of 65  $\mu\text{g}/\text{m}^3$ . On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS at 15.0  $\mu\text{g}/\text{m}^3$  based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations and promulgated a new 24-hour NAAQS of 35  $\mu\text{g}/\text{m}^3$  based on a 3-year average of the 98th percentile of 24-hour concentrations. On March 27, 2008 (77 FR 16436), EPA revised the 8-hour ozone NAAQS to 0.075 parts per million. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS.

EPA received Florida's infrastructure submissions on April 18, 2008, for the 1997 annual PM<sub>2.5</sub> NAAQS; on September 23, 2009, for the 2006 24-hour PM<sub>2.5</sub> NAAQS; and on October 31, 2012, for the 2008 8-hour ozone NAAQS. The rulemaking proposed through today's action only addresses section 110(a)(2)(D)(i) visibility requirements. Florida supplemented its September 23, 2009, submission on April 18, 2011, to further address the required elements of sections 110(a)(2)(D)(i) and 110(a)(2)(D)(ii), and it supplemented the April 18, 2008, September 23, 2009, and October 31, 2012, submissions on October 23, 2013, stating that Florida has met the section 110(a)(2)(D)(ii) visibility requirements for the 1997 annual PM<sub>2.5</sub> NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS, and 2008 8-hour ozone NAAQS through EPA's approval of the State's regional haze SIP submission and incorporation of all relevant portions of Florida's visibility program into the State's implementation plan.

## **II. What are States Required to Address under Section 110(a)(2)(D)?**

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct elements, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state ("prong 1") and from interfering with maintenance of the NAAQS in another state ("prong 2"). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state ("prong 3") and to protect visibility in another state ("prong 4"). Section

110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Today's proposed rulemaking pertains only to requirements related to prong 4 of section 110(a)(2)(D)(i)(II), which as previously described, requires that the SIP contain adequate provisions to protect visibility in other states. EPA's rationale for today's proposal that Florida is meeting these prong 4 requirements for purposes of the 1997 annual PM<sub>2.5</sub> NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS, and 2008 8-hour ozone NAAQS is provided below.

### **III. What is EPA's Analysis of How Florida Addressed the Section 110(a)(2)(D)(i)(II) Visibility Element?**

EPA has made the preliminary determination that Florida's infrastructure SIP submissions for the 1997 annual PM<sub>2.5</sub> NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS, and 2008 8-hour ozone NAAQS meet the requirements of prong 4 of section 110(a)(2)(D)(i)(II) because the Agency has approved Florida's regional haze SIP,<sup>1</sup> and Florida has confirmed, through its October 22, 2013, supplement to its SIP submissions, that it has met the prong 4 requirements of section 110(a)(2)(D)(ii) for these NAAQS through EPA's approval of the State's regional haze SIP submission and incorporation of all relevant portions of Florida's visibility program into the State's implementation plan. Federal regulations require that a state's regional haze SIP contain a long-term strategy to address regional haze visibility impairment in each Class I area within the state and each Class I area outside the state that may be affected by emissions from the state.<sup>2</sup> A

---

<sup>1</sup> 77 FR 71111 (November 29, 2012); 78 FR 53250 (August 29, 2013).

<sup>2</sup> 40 CFR 51.308(d).

state participating in a regional planning process, such as Florida, must include all measures needed to achieve its apportionment of emissions reduction obligations agreed upon through that process.<sup>3</sup> EPA's approval of Florida's regional haze SIP therefore ensures that emissions from Florida are not interfering with measures to protect visibility in other states, satisfying the requirements of prong 4 of section 110(a)(2)(D)(i)(II) for the 1997 and 2006 PM<sub>2.5</sub> NAAQS and for the 2008 8-hour ozone NAAQS.<sup>4</sup>

#### **IV. Proposed Action**

As described above, EPA is proposing to approve the infrastructure SIP submissions from FDEP as addressing prong 4 of section 110(a)(2)(D)(i)(II) of the CAA for the 1997 and 2006 PM<sub>2.5</sub> NAAQS and for the 2008 8-hour ozone NAAQS. Specifically, EPA is proposing to approve FDEP's April 18, 2008, and September 23, 2009, submissions for the 1997 and 2006 PM<sub>2.5</sub> NAAQS, and FDEP's October 31, 2011, submission for the 2008 8-hour ozone NAAQS, as supplemented on October 22, 2013, as they pertain to prong 4 of section 110(a)(2)(D)(i)(II) because they are consistent with section 110 of the CAA.

---

<sup>3</sup> See, e.g., 40 CFR 51.308(d)(3)(ii). Florida participated in the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) regional planning organization, a collaborative effort of state governments, tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Southeastern United States. Member state and tribal governments included: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the Eastern Band of the Cherokee Indians.

<sup>4</sup> See EPA's September 13, 2013, guidance document entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)" at pp. 32-35, available at: <http://www.epa.gov/air/urbanair/sipstatus/infrastructure.html>; see also memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, to Regional Air Division Directors, entitled "Guidance on SIP Elements Required Under Sections 110(1)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) (September 25, 2009) at pp. 5-6, available at: [http://www.epa.gov/ttn/caaa/t1/memoranda/20090925\\_harnett\\_pm25\\_sip\\_110a12.pdf](http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf).

## V. 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**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.

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

Dated: March 10, 2014

A. Stanley Meiburg

Acting Regional Administrator,

Region 4.

**[FR Doc. 2014-06225 Filed 03/20/2014 at 8:45 am; Publication Date: 03/21/2014]**