



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0049; FRL-12620-02-R4]

Air Plan Approval; Florida; Revisions to Stationary Sources – Removal of Clean Air Interstate Rule Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (FDEP) on August 15, 2023. The revision removes certain Clean Air Interstate Rule (CAIR)-related definitions, and CAIR-related portions of certain definitions, in the Stationary Sources—General Requirements chapter of the Florida SIP because they have become obsolete. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2024-0049. All documents in the docket are listed on the regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation 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: Mr. Steven Scofield, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9034. Mr. Scofield can also be reached via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving a SIP revision submitted by FDEP on August 15, 2023, seeking to remove certain CAIR-related definitions, and CAIR-related portions of certain definitions, from Chapter 62-210, *Stationary Sources—General Requirements*, of the Florida SIP.¹ Specifically, this final action addresses definitional changes adopted by the State, effective July 3, 2018, to SIP-approved Rule 62-210.200, *Definitions*. These definitions are referenced throughout Chapter 62-210 and in other parts of the SIP. Approval of these changes improves consistency with Federal and State regulations.

The following definitions are being removed from the SIP: 62-210.200(52) “CAIR”; 62-210.200(53) “CAIR NO_x Allowance”; 62-210.200(54) “CAIR NO_x Annual Trading Program”; 62-210.200(55) “CAIR NO_x Ozone Season Allowance”; 62-210.200(56) “CAIR NO_x Ozone Season Trading Program”; 62-210.200(57) “CAIR NO_x Ozone Season Unit”; 62-210.200(58) “CAIR NO_x Unit”; 62-210.200(59) “CAIR Part or CAIR Unit”; 62-210.200(60) “CAIR Program”; 62-210.200(61) “CAIR SO₂ Allowance”; 62-210.200(62) “CAIR SO₂ Trading

¹ The August 15, 2023, submittal contains revisions to other Florida SIP-approved rules that are not addressed in this action. EPA will act on those rule changes in separate rulemakings.

Program”; 62-210.200(63) “CAIR SO₂ Unit”; and 62-210.200(64) “CAIR Source”; 62-210.200(65). This action also removes the CAIR-related portions of 62-210.200(91) “Commence Operation” (removing paragraph (b)) and 62-210.200(115) “Designated Representative” (removing paragraph (b) and moving paragraph (c) to paragraph (b)).

Through a notice of proposed rulemaking (NPRM) published on March 28, 2025 (90 FR 14059), EPA proposed to approve these changes because CAIR is no longer operative; EPA previously removed Florida’s CAIR rule from the SIP,² and the changes therefore would not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the Act.³ The removal of other CAIR-related definitions was also requested as part of this August 15, 2023, SIP submission; however, EPA will address these changes in a separate rulemaking. EPA’s rationale for approving the removal or modification of the above definitions is described in the March 28, 2025, NPRM and further discussed in Section II, below. Comments on the NPRM were due on or before April 28, 2025. EPA received four comments on the NPRM. All four comments are available in the docket for this action.

II. Response to Comments

EPA has summarized and responded to the four comments below.

Comment 1: Two of the commenters recommend that EPA disapprove the proposed revisions to the Florida SIP. Among other things, the commenters mention land use development and its impacts. One commenter adds that strict air quality standards and penalties are needed, and one commenter adds that CAIR should be reinstated.

Response 1: EPA disagrees that the Agency should disapprove the SIP revision. EPA is acting on a SIP revision submitted pursuant to the CAA that merely removes unnecessary and

² A summary and timeline of the federal and State alterations to the CAIR regulations can be found in Appendix A of Florida’s August 15, 2023, SIP submission, starting on page 1147. The submission can be found in the docket for this rulemaking, Docket ID No. EPA-R04-OAR-2024-0049 at [regulations.gov](https://www.regulations.gov). EPA removed Florida’s former CAIR rule from the SIP on October 3, 2023 (88 FR 67963).

³ See CAA section 110(l) which prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA Section 171), or any other applicable requirement of the Act.

obsolete CAIR-related definitions, and CAIR-related portions of certain definitions, from the SIP. The SIP revision is unrelated to land use development and has no impact on air quality. As discussed in the NPRM, in response to the United States Court of Appeals for the District of Columbia Circuit's remand of CAIR, EPA published the Cross-State Air Pollution Rule (CSAPR) to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 fine particulate matter (PM_{2.5}) NAAQS, and the 2006 PM_{2.5} NAAQS. *See* 76 FR 48208 (August 8, 2011). Through subsequent litigation over CSAPR, EPA continued to implement CAIR until December 31, 2014. CSAPR became effective on January 1, 2015. EPA determined that CSAPR does not apply to Florida after demonstrating that Florida does not contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to the covered NAAQS. *See* 81 FR 74504, 74506 (October 26, 2016). Because CSAPR replaced CAIR and EPA previously determined that CSAPR does not apply to Florida, neither of these rules have any applicability in Florida today, and CAIR cannot be reinstated in Florida. EPA removed Florida's former CAIR rule – Rule 62-296.470, *Implementation of Federal Clean Air Interstate Rule* – from the SIP on October 3, 2023. *See* 88 FR 67963.

Comment 2: The third commenter supports approval of Florida's SIP revision. The commenter suggests that EPA provide a “clear side-by-side list showing which terms are being removed and what's staying the same” and explain if these changes affect how Florida monitors or controls air pollution.

Response 2: Regarding the suggestion for a side-by-side list, it is unclear what the commenter would find helpful. The August 25, 2023, SIP submission identifies what is in the SIP for each rule selected for modification, what changes are requested, and what the SIP would look like if each change is adopted. The NPRM and this notice of final rulemaking also provide a list of each removed and revised definition along with the rule numbers. Except for these removed and revised definitions, the SIP will remain the same.

Regarding an explanation about impacts on the monitoring and control of air pollution, there is no impact because no air quality standards, emission standards, or any other SIP requirements are being relaxed or removed in this action. As discussed above and in the NPRM, Florida's CAIR trading program, as well as the corresponding EPA program, have not been implemented since 2014, and the rules and regulations related to these programs have already been removed or replaced. Therefore, EPA is removing the CAIR-related definitions, and CAIR-related portions of certain definitions, because they are unnecessary and obsolete.

Comment 3: The fourth commenter suggests that EPA should require a supplemental environmental justice analysis; identify how its action complies with the CAA "good neighbor" obligations under CAA section 110(a)(2)(D)(i)(I); establish a periodic SIP review process with Florida to remove obsolete rule text within five years of rule changes; provide community outreach with Florida for SIP revisions removing major regulatory programs; archive references to CAIR-related programs and definitions in EPA's docket system; conduct an impact analysis to ensure the action does not create unintended gaps in Florida's SIP that could weaken enforcement; verify that the action does not conflict with the 2015 ozone and 2020 PM_{2.5} NAAQS; confirm that the action does not reduce any public health protections; confirm whether any consultation with Tribal governments was conducted or deemed unnecessary under Executive Order 13175; and acknowledge that "strong SIP clarity supports broader national climate justice goals by ensuring foundational air quality protections remain enforceable."

Response 3: EPA disagrees with the comment that EPA should require an environmental justice analysis to ensure that this action does not unintentionally impact pollution control standards for vulnerable communities. As discussed above and in the NPRM, the aforementioned definitions and portions of definitions subject to this action no longer function in Florida's SIP because CAIR is no longer operative, and EPA previously removed Florida's CAIR rule from the SIP. No air quality standards, emission standards, or any other SIP requirements are being relaxed or removed in this action. Furthermore, the CAA does not

require consideration of environmental justice in SIP actions, and Executive Order 14148 – “Initial Rescission of Harmful Executive Orders and Actions” (90 FR 8237; January 28, 2025) revoked past Executive Orders related to environmental justice.

Regarding the comments that EPA should document and publish how this action complies with CAA section 110(a)(2)(D)(i)(I) to prevent interstate air pollution; EPA should verify that this action does not conflict with obligations under the ozone and PM_{2.5} NAAQS; and EPA should include a statement that this action does not reduce public health protections, this action has no impact on air quality for the reasons discussed above, and therefore, has no impact on interstate air pollution, the NAAQS, or public health.

Regarding the comments that Florida and EPA should establish a periodic SIP review process, and that EPA should acknowledge that SIP clarity supports national climate justice goals by ensuring foundational air quality protections remain enforceable, these comments are beyond the scope of this action. This action is solely focused on the individual definitional changes in Florida’s August 15, 2023, SIP revision.

Regarding public engagement, the CAA and its implementing regulations require states to provide public notice, the opportunity to submit written comments, and the opportunity to request a public hearing on each SIP revision. *See* CAA section 110(a)(2); 40 CFR 51.102; Appendix V to 40 CFR part 51. Florida’s SIP revision met these requirements. Furthermore, EPA provided public notice and the opportunity for comment on this action approving the revision.

Regarding recordkeeping and transparency, the rulemaking docket for this action will remain available at www.regulations.gov. Moreover, EPA provides regular updates to the public on its incorporation by reference of state and local regulations approved into SIPs and maintains a public compilation of the SIP, including a summary of citations for past actions.⁴

⁴ Florida’s SIP is available at the following website: <https://www.epa.gov/air-quality-implementation-plans/approved-air-quality-implementation-plans-region-4>. Specific regulatory provisions incorporated into

Regarding an analysis of potential issues with enforceability of the SIP as a result of removing the aforementioned definitions and portions of definitions, there is no impact on enforceability because, as stated in the NPRM and this notice, the definitions and portions of definitions subject to this action no longer function in Florida's SIP because CAIR is no longer operative, and EPA previously removed Florida's CAIR rule from the SIP.

Regarding tribal consultation under Executive Order 13175, as noted in the NPRM, 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, and in those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249; November 9, 2000).

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Florida Rule 62-210.200, *Definitions*, state-effective on October 23, 2013 with the exception of the following: 62-210.200(52) "CAIR"; 62-210.200(53) "CAIR NO_x Allowance"; 62-210.200(54) "CAIR NO_x Annual Trading Program"; 62-210.200(55) "CAIR NO_x Ozone Season Allowance"; 62-210.200(56) "CAIR NO_x Ozone Season Trading Program"; 62-210.200(57) "CAIR NO_x Ozone Season Unit"; 62-210.200(58) "CAIR NO_x Unit"; 62-210.200(59) "CAIR Part" or "CAIR Permit"; 62-210.200(60) "CAIR Program"; 62-210.200(61) "CAIR SO₂ Allowance"; 62-210.200(62) "CAIR SO₂ Trading Program"; 62-210.200(63) "CAIR SO₂ Unit"; 62-210.200(64) "CAIR Source"; 62-210.200(65) "CAIR Unit"; 62-210.200(91) "Commence Operation"; and 62-

210.200(115) “Designated Representative”.⁵ EPA is also incorporating by reference the modified definitions of 62-210.200(79) “Commence Operation” and 62-210.200(103) “Designated Representative,” which became state-effective on July 3, 2018.⁶ EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁷

IV. Final Action

EPA is approving the August 15, 2023, Florida SIP revision that removes Rules 62-210.200(52) “CAIR”; 62-210.200(53) “CAIR NO_x Allowance”; 62-210.200(54) “CAIR NO_x Annual Trading Program”; 62-210.200(55) “CAIR NO_x Ozone Season Allowance”; 62-210.200(56) “CAIR NO_x Ozone Season Trading Program”; 62-210.200(57) “CAIR NO_x Ozone Season Unit”; 62-210.200(58) “CAIR NO_x Unit”; 62-210.200(59) “CAIR Part” or “CAIR Permit”; 62-210.200(60) “CAIR Program”; 62-210.200(61) “CAIR SO₂ Allowance”; 62-210.200(62) “CAIR SO₂ Trading Program”; 62-210.200(63) “CAIR SO₂ Unit”; 62-210.200(64) “CAIR Source”; and 62-210.200(65) “CAIR Unit”; and modifies Rules 62-210.200(91) “Commence Operation” and 62-210.200(115) “Designated Representative.”

⁵ These CAIR-related definitions were removed from the state-effective version of Rule 62-210.200 on July 3, 2018. EPA is also not incorporating by reference the definitions of “animal crematory”; “biological waste”; “biological waste incinerator”; “biomedical waste”; “capture efficiency”; “cast polymer operation”; “human crematory”; “major source of air pollution,” “major source,” or “title V source”; “printed interior panels”; “unit-specific applicable requirement”; and “waste-to-energy facility” as identified in the regulatory table entry for Rule 62-210.200 at 40 CFR 52.520(c). As finalized, the table entry for Rule 62-210.200 at 40 CFR 52.520(c) will retain these exclusions and retain the note that “The ethanol production facility exclusion within the definition of “major stationary source” at 62-210.200 does not apply to 62-212.500.”

⁶ These definitions are numbered 62-210.200(91) and 62-210.200(115), respectively, in the current SIP. As finalized, the SIP will contain two definitions numbered 62-210.200(79) and two definitions numbered 62-210.200(103). The August 15, 2023, submittal requests that EPA remove all definition numbers from 62-210.200 in the SIP, retaining the alphabetical order of the definitions. EPA will act on that change in a separate rulemaking.

⁷ 62 FR 27968 (May 22, 1997).

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 CAA and applicable Federal regulations. 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 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 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, 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 and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 25, 2025.

Kevin McOmber,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart K – Florida

2. In § 52.520(c), amend the table by revising the entry for “62-210.200.”

The amendment reads as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Florida Laws and Regulations

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
**	*	*	*	*
Chapter 62-210 Stationary Sources - General Requirements				
62-210.200	Definitions	10/23/2013	[Insert date of publication in the Federal Register], 90 FR [Insert Federal Register page where the document begins]	The ethanol production facility exclusion within the definition of “major stationary source” at 62-210.200 does not apply to 62-212.500. Except the following definitions: “animal crematory”; “biological waste”; “biological waste incinerator”; “biomedical waste”; “capture efficiency”; “cast polymer operation”; “human crematory”; “major source of air pollution,” “major source,” or “title V source”; “printed

				interior panels”; “unit-specific applicable requirement”; “waste-to-energy facility”; “CAIR”; “CAIR NOx Allowance”; “CAIR NOx Annual Trading Program”; “CAIR NOx Ozone Season Allowance”; “CAIR NOx Ozone Season Trading Program”; “CAIR NOx Ozone Season Unit”; “CAIR NOx Unit”; “CAIR Part” or “CAIR Permit”; “CAIR Program”; “CAIR SO2 Allowance”; “CAIR SO2 Trading Program”; “CAIR SO2 Unit”; “CAIR Source”; and “CAIR Unit”; and except for “Commence Operation” and “Designated Representative” approved on [Insert date of publication in the Federal Register], state effective 7/3/2018.
**	**	*	*	*