

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 50 to 51, revised as of July 1, 2010, on page 265, in § 51.166, paragraph (b)(49)(vi) is added to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(b) * * *

(49) * * *

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions, and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2005-AL-0002-201047; FRL-9290-3]

Approval and Promulgation of Implementation Plans: Alabama: Final Disapproval of Revisions to the Visible Emissions Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to amend an October 15, 2008, final rulemaking on two State Implementation Plan (SIP) revisions regarding the State of Alabama's rules for visible emissions from certain stationary sources. EPA has now determined upon reconsideration that Alabama's SIP revisions, dated September 11, 2003, and August 22, 2008, are not approvable pursuant to the Clean Air Act (CAA or Act) section 110(l). Accordingly, EPA is disapproving the two SIP revisions provided to EPA by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), dated September 11, 2003, and August 22, 2008 (Submittals). No further action is required by Alabama because the SIP revisions were not required by the CAA. As a result of this action, Alabama's visible emissions rule that was in the SIP prior to the October 15, 2008, final action will be the current SIP-approved rule as of the effective date of this action. EPA urges Alabama to undertake rulemaking that will bring its State-effective rule into conformance with its SIP-approved rule.

DATES: *Effective Date:* This rule will be effective May 6, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2005-AL-0002. All documents in the docket are listed on the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (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 through <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 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics

Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What is the background for this action?

This action follows three key EPA actions regarding Alabama's request for approval of the two visible emissions SIP revisions. The first was an October 15, 2008, final rule (73 FR 60957) approving revisions to the Alabama SIP embodied in two submittals dated September 11, 2003, and August 22, 2008 (Submittals). The second was an April 3, 2009, action granting a February 25, 2009, petition for reconsideration on the October 15, 2008, final action which had approved the SIP revisions. The third was an October 2, 2009, proposed rule (74 FR 50930) identifying two alternative options being considered by EPA as part of the reconsideration process (the alternative proposals were either to affirm the October 15, 2008, rulemaking, thereby approving Alabama's Submittals or to amend the October 15, 2008, rulemaking, thereby disapproving Alabama's Submittals). EPA has now determined that Alabama's Submittals are not approvable pursuant to CAA section 110(l). Detailed background information for this action is available in the proposed rulemaking published on October 2, 2009. 74 FR 50930.

In relevant but brief part, on September 11, 2003, ADEM submitted a voluntary¹ request for EPA approval of a SIP revision (2003 Submittal) containing proposed revisions to the existing EPA-approved visible emissions portion of the Alabama SIP, found at Alabama Administrative Code (AAC) 335-3-4-.01, "Visible Emissions," and pertaining to sources of particulate matter (PM) emissions.² In

¹ The request was "voluntary" because it was not specifically required by the CAA or its implementing regulations, rather, ADEM chose to revise its rules and submit the SIP revision.

² PM particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers are referred to as PM₁₀; PM particles with an aerodynamic diameter less than or equal to a