11.7.3 Delivery

Mailings bearing the marking for consumer testing can only be delivered to the named addressee under the following conditions:

a. The recipient signing for the Express Mail Hold for Pickup service article must be an adult of at least 21 years of age.

b. The recipient must furnish proof of age through production of a driver's license, passport, or other government-issued photo identification that lists age or date of birth.

c. The name on the identification must match the name of the addressee on the Express Mail label.

d. Once age is established, the recipient must sign the PS Form 3849 and PS Form 3811 in the appropriate signature blocks. If mailer's eligibility number is missing in the return address block of the PS Form 3811 return receipt, the mailing must be returned to sender.

11.8 Public Health Exception

Federal government agencies involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the mailing standards of 11.7, except as provided herein. The Federal agency shall not be subject to the requirement that the recipient be paid a fee for participation in consumer tests. Upon written request, the manager, PCSC, may, in his or her discretion, waive certain of the application requirements.

* * * * *

608 Postal Information and Resources

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8.0 USPS Contact Information

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8.4. PCSC and District Business Mail Entry Offices Contact Information

[*Add second listing to the PCSC under the current listing as follows:*]

4.1 Pricing and Classification Service Center (PCSC)

For return receipts mailed under the provisions in 601.11.5, 601.11.7, and 601.11.8, use the following address:

PCSC, PACT MAILING OFFICE, USPS ELIGIBILITY NO. XX–00–0000, 90 Church Street Suite 3100, New York, NY 10007–2951

* * * * *

We will publish an amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–12869 Filed 5–25–10; 11:15 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0612–200914(a); FRL–9155–3]

Approval and Promulgation of Air Quality Implementation Plans: Florida; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standards for the Jacksonville, Tampa Bay, and Southeast Florida Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Florida State Implementation Plan (SIP) concerning the maintenance plans addressing the 1997 8-hour ozone standards for the Jacksonville, Tampa Bay, and Southeast Florida 1997 8-hour ozone attainment areas in Florida, hereafter referred to as the "Jacksonville Area," "Tampa Bay Area," and "Southeast Florida Area," respectively. The Jacksonville Area is comprised of Duval County; the Tampa Bay Area comprises Hillsborough and Pinellas Counties; and the Southeast Florida Area comprises Broward, Dade, and Palm Beach Counties. These maintenance plans were submitted to EPA on July 2, 2009, by the State of Florida, through the Florida Department of Environmental Protection (FDEP), and ensure the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2014 in the Jacksonville, Tampa Bay, and Southeast Florida Areas. EPA is approving the SIP revisions pursuant to section 110 of the Clean Air Act (CAA). These maintenance plans meet all the statutory and regulatory requirements, and are consistent with EPA's guidance. On March 12, 2008, EPA issued revised ozone standards. On September 16, 2009, EPA announced it would reconsider the 2008 NAAQS for ozone and proposed a new schedule for designations for the reconsidered standards. EPA published a proposed rulemaking on January 19, 2010, for reconsideration of the 2008 NAAQS, and expects to finalize the reconsidered NAAQS by August 2010. The current action, however, is being taken to address requirements under the 1997 8-hour ozone standards. Requirements for the Jacksonville, Tampa Bay, and Southeast Florida Areas under the 2010 reconsidered ozone standards will be addressed in the future.

DATES: This rule is effective on July 26, 2010 without further notice, unless EPA receives relevant adverse comment by June 28, 2010. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0612, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail:* benjamin.lynorae@epa.gov.
3. *Fax:* (404) 562–9019.
4. *Mail:* "EPA–R04–OAR–2009–0612," 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–2009–0612." 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://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 *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site 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 *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 *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 *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: Twunjala Bradley, 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) 562–9352. Ms. Bradley can also be reached via electronic mail at *bradley.twunjala@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Analysis of Florida's Submittals
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

In accordance with the CAA, the Jacksonville, Tampa Bay and Southeast Florida Areas in Florida were designated nonattainment for the 1-hour ozone NAAQS on November 6, 1991, 56 FR 56694 (effective January 6, 1992, 60 FR 7124).

On June 23, 1993, the State of Florida, through the FDEP, submitted a request to redesignate Duval County in association with the Jacksonville Area to attainment for the 1-hour ozone standards. Likewise, Florida submitted redesignation requests for Broward, Dade, and Palm Beach Counties in association with the Southeast Florida Area on November 8, 1992, and for Hillsborough and Pinellas Counties in association with the Tampa Bay Area on February 7, 1995. Included with these redesignation requests, Florida submitted the required 1-hour ozone monitoring data and maintenance plans ensuring these areas would remain in attainment of the 1-hour ozone standards for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plans submitted by Florida followed EPA guidance for maintenance areas, subject to section 175A of the CAA.

On January 3, 1995, EPA approved Florida's request to redesignate the Jacksonville Area (60 FR 41) to attainment for the 1-hour ozone NAAQS. Likewise, the Southeast Florida and Tampa Bay Areas were redesignated to attainment on February 24, 1995, and December 7, 1995 (60 FR 10325 and 60 FR 62793), respectively. The maintenance plans for the Jacksonville, Tampa Bay, and Southeast Florida Areas became effective on March 6, 1995, February 5, 1996, and April 1995, respectively. Florida later updated all three maintenance plans, in accordance with section 175(A)(b), to extend the maintenance plans to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of these areas to attainment.

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase 1 Rule). The Jacksonville, Tampa Bay, and Southeast Florida Areas were designated as attainment for the 1997 8-hour ozone standards, effective June 15, 2004. These attainment areas consequently were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 Rule. On May 20, 2005, EPA issued guidance providing information on how a state might fulfill the maintenance plan obligation established by the CAA and the Phase 1 Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005—hereafter referred to as the "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Rule for the 1997 8-hour Ozone Standard. *South Coast Air Quality Management District.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Phase 1 Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions. The Court's decision does not alter any requirements under the Phase 1 Rule for section 110(a)(l) maintenance plans. EPA is taking action to approve Florida's July 2, 2009, SIP revisions which satisfy CAA section 110(a)(1) CAA requirements for a plan providing for maintenance of the 1997 8-hour ozone NAAQS in the Jacksonville, Tampa Bay and Southeast Florida Areas.

II. Analysis of Florida's Submittals

On July 2, 2009, the State of Florida, through the FDEP, submitted SIP revisions containing the 1997 8-hour ozone maintenance plans for the Jacksonville, Tampa Bay and Southeast Florida Areas as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Rule *(see* 40 CFR 51.905(a)(4)). The purpose of these plans is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS in these Areas until 2018.

As required, these plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Jacksonville, Tampa Bay and Southeast Florida Areas for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also include components illustrating how each area will continue attainment of the 1997 8-hour ozone NAAQS, and provide contingency measures. Each of the section 110(a)(1) plan components is discussed below for each area.

(a) *Attainment Inventory.* In order to demonstrate maintenance in the aforementioned areas, Florida developed comprehensive inventories of volatile organic compounds (VOC) and nitrogen oxide (NO_X) emissions from area, stationary, on-road mobile, and non-road mobile sources using 2002 as the base year. The year 2002 is an appropriate year for Florida to base attainment level emissions because states may select any one of the three years on which the 1997 8-hour attainment designation was based (2001, 2002, and 2003). The State's submittal

contains the detailed inventory data and summaries by source category for each area. Using the 2002 inventory (as a base year) reflects one of the years used for calculating the air quality design values on which the 1997 8-hour ozone designation decisions were based.

A further practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) requires states to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the rule as June 2004. In accordance with these requirements, Florida compiles a statewide emissions inventory for point sources on an annual basis. On-road mobile emissions of VOC and NO_X were estimated using MOBILE6 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived using the U.S. EPA's NONROAD 2002 model.

In projecting data for the maintenance year 2014 emissions inventories, Florida used several methods to project data from the base year 2002 to the years 2009 and 2018; and the interim years 2005, 2008, 2011 and 2014. These projected inventories were developed using EPA-approved technologies and methodologies including the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) methodology. Point source inventories were developed through VISTAS using the Integrated Planning Model (IPM) for electrical generating units (EGU) sources and updated growth and control data for non-EGU sources. EPA's Emissions Growth Analysis System model was used to derive area source emissions data. Non-road mobile projections were derived from the NONROAD model.

The following tables provide VOC and NO_X emissions data for the 2002 base attainment year inventories, as well as projected detailed source category VOC and NO_X emission inventory data for 2009 and 2018. To further support these maintenance demonstrations, interim projections for VOC and NO_X emission inventory data beginning in the year 2005 through the year 2018 are also provided for each area. The requirement for these maintenance plans is an end year of 2014, but Florida has chosen to provide projections through 2018 also in support of these maintenance demonstrations. The Phase 1 Rule provides that the 10-year maintenance period begin as of the effective date of designation for the 1997 8-hour NAAQS for the area. The designations were effective in 2004 so the maintenance period must end no earlier than 2014. Florida has opted to provide additional supporting information through the year 2018.

TABLE 1—2002 VOC AND NO_X BASE YEAR EMISSIONS INVENTORY

[Tons/day]

	Southeast Florida				Tampa Bay			Jacksonville
	Miami-Dade	Broward	Palm Beach	Total	Hillsborough	Pinellas	Total	Duval
VOC								
Point Source	4.68	4.28	1.44	10.40	5.19	2.81	8.00	5.61
Area Source	132.08	96.74	73.77	302.60	72.34	61.20	133.54	59.53
On-Road	131.07	107.43	80.69	319.19	81.76	61.47	143.23	64.13
Non Road	52.79	37.39	55.74	145.92	29.39	22.97	52.36	25.39
Total	320.63	245.54	211.64	778.11	188.67	148.45	337.13	154.65
NO_X								
Point Source	40.23	58.76	25.33	124.32	151.02	25.64	176.66	115.47
Area Source	7.41	5.08	3.53	16.02	4.39	15.63	20.02	6.10
On-Road	144.95	120.19	91.31	356.46	92.88	62.63	155.51	72.68
Non Road	57.42	54.79	39.62	151.82	86.98	18.41	105.39	43.34
Total	250.01	238.82	159.79	648.62	335.26	122.31	457.57	237.60

TABLE 2—2009 PROJECTED VOC AND NO_X EMISSIONS INVENTORY

[Tons/day]

	Southeast Florida				Tampa Bay			Jacksonville
	Miami-Dade	Broward	Palm Beach	Total	Hillsborough	Pinellas	Total	Duval
VOC								
Point Source	3.74	3.95	1.19	8.87	5.12	2.49	7.61	5.62
Area Source	140.57	103.37	77.41	321.35	77.18	65.88	143.06	62.55
On-Road	77.98	66.24	50.31	194.53	50.22	37.64	87.86	39.26
Non Road	41.55	27.40	39.46	108.41	22.47	17.58	40.05	18.23
Total	263.84	200.95	168.36	633.16	154.98	123.59	278.57	125.67
NO_X								
Point Source	24.75	18.39	7.31	50.45	16.62	5.03	21.65	21.43
Area Source	7.36	5.05	3.53	15.95	4.46	12.68	17.13	6.43
On-Road	93.47	79.81	61.32	234.60	61.62	41.79	103.41	47.94

TABLE 2—2009 PROJECTED VOC AND NO_X EMISSIONS INVENTORY—Continued

[Tons/day]

	Southeast Florida				Tampa Bay			Jacksonville
	Miami-Dade	Broward	Palm Beach	Total	Hillsborough	Pinellas	Total	Duval
Non Road	52.07	49.55	34.11	135.72	80.40	15.38	95.78	39.13
Total	177.64	152.80	106.27	436.72	163.10	74.88	237.98	114.93

TABLE 3—2018 PROJECTED VOC AND NO_X EMISSIONS INVENTORY

[Tons/day]

	Southeast Florida				Tampa Bay			Jacksonville
	Miami-Dade	Broward	Palm Beach	Total	Hillsborough	Pinellas	Total	Duval
VOC								
Point Source	4.64	4.95	1.54	11.13	6.39	3.29	9.68	6.63
Area Source	168.91	124.81	90.22	33.94	90.21	79.95	170.16	73.89
On-Road	49.76	43.85	33.54	127.15	33.14	24.81	57.94	25.85
Non Road	41.61	27.56	36.15	105.32	21.17	16.02	37.19	17.08
Total	264.92	201.16	161.45	627.52	150.90	124.07	274.97	123.45
NO_X								
Point Source	28.52	16.93	9.64	55.08	18.25	6.96	25.22	22.20
Area Source	7.84	5.39	3.78	17.0	5.03	13.86	18.90	6.89
On-Road	42.41	37.74	29.17	109.31	28.81	19.84	48.64	22.42
Non Road	40.34	39.56	21.90	101.80	67.67	9.86	77.52	31.13
Total	119.11	99.62	64.48	283.21	119.76	50.52	170.28	82.65

TABLE 4—PROJECTIONS OF ANTHROPOGENIC VOC AND NO_X EMISSIONS

[Tons/day]

Year	Southeast Florida				Tampa Bay			Jacksonville
	Miami-Dade	Broward	Palm Beach	Total	Hillsborough	Pinellas	Total	Duval
VOC								
2002	320.63	245.84	211.64	778.11	188.67	148.45	337.13	154.65
2005	296.29	226.61	193.09	715.99	174.24	137.80	312.03	142.23
2008	271.96	207.37	174.55	653.87	159.80	127.14	286.94	129.81
2009*	263.84	200.95	168.36	633.16	154.98	123.59	278.57	125.67
2011	264.08	201.00	166.83	631.91	154.08	123.70	277.77	125.17
2014	264.44	201.07	164.52	630.04	152.71	123.85	276.57	124.44
2018*	264.92	201.16	161.45	627.52	150.90	124.07	274.97	123.45
NO_X								
2002	250.01	238.82	159.79	648.62	335.26	122.31	457.57	237.60
2005	219.00	201.95	136.85	557.81	261.48	101.98	363.46	185.03
2008	187.98	165.09	113.92	466.99	187.70	81.66	269.35	132.45
2009*	177.64	152.80	106.27	436.72	163.10	74.88	237.98	114.93
2011	164.64	140.98	96.99	402.61	153.47	69.47	222.94	107.75
2014	145.13	123.25	83.06	351.44	139.02	61.35	200.37	97.00
2018*	119.11	99.62	64.48	283.21	119.76	50.52	170.28	82.65

* More detailed information regarding the source category emissions for these projections is provided in Tables 2 and 3 in this rulemaking.

As shown in Table 4 above, the Jacksonville, Tampa Bay, and Southeast Florida Areas projected to decrease total VOC and NO_X emissions from the base year of 2002 to the maintenance year of 2014. This VOC and NO_X emission decrease demonstrates continued attainment/maintenance of the 1997 8-hour ozone standards for ten years from 2004 as required by the CAA and Phase 1 Rule. Furthermore, total VOC and NO_X emissions are projected to steadily decrease from the base year of 2002 through 2018.

As shown in the tables above, Florida has demonstrated that the future year emissions will be less than the 2002 base attainment year's emissions for the

1997 8-hour ozone NAAQS for the Jacksonville, Tampa Bay and Southeast Florida Areas. The attainment inventories submitted by Florida for these areas are consistent with the criteria as discussed in the Wegman Memorandum. EPA finds that the future emission levels for the projected years 2005, 2008, 2009, 2011, 2014 and 2018, are expected to be less than the attainment level emissions in 2002. In the event that a future 8-hour ozone monitoring reading in one of these areas is found to violate the 1997 ozone standards, the contingency plan section of each area's maintenance plan includes measures that will be promptly implemented to ensure that the Area returns to maintenance of the 1997 ozone standards. Please see section (d) Contingency Plan, below, for additional information related to the contingency measures in each of the maintenance plans.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in attainment with the 1997 8-hour ozone standards for the 10-year period following the effective date of designation as unclassifiable/attainment. The required end projection year for all three maintenance areas is 2014; however, Florida has opted to provide additional supporting information through the year 2018. As discussed in section (a) Attainment Inventory above, Florida identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2002. Florida projected VOC and NO_X emissions for 2009 and 2018, as well as provided interim projection emissions inventories for VOC and NO_X emissions for the years 2005, 2008, 2011 and 2014 in the Jacksonville, Tampa Bay and Southeast Florida Areas. EPA finds that the future emissions levels in these years are expected to be below the emissions levels in 2002 in the Jacksonville, Tampa Bay, and Southeast Florida Areas.

Florida's SIP revision for the maintenance plans for the Jacksonville, Tampa Bay, and Southeast Florida Areas also relies on a combination of several air quality measures that will provide for additional 8-hour ozone emissions reductions in these areas. These measures include the implementation of the following, among others: (1) Heavy Duty 2007 Engine Standards, (2) Tier 2 Tailpipe Program, (3) Large Spark Ignition and Recreational Vehicle Rule, (4) Nonroad Diesel Rule, (5) Industrial Boiler/Process Heater/RICE maximum available control technology (MACT), (6) Petroleum Refinery Initiative, (7) VOC 2-, 4-, 7-, and 10-year MACT Standards, (8) Combustion Turbine MACT, and (9) consent decrees from Tampa Electric, Virginia Electric and Power Company and Gulf Power Crist. These Florida attainment areas are also benefiting from the following reductions that are occurring in other states in the Southeast: (1) North Carolina Clean Smokestacks Act, (2) Atlanta/Northern Kentucky/Birmingham 1-hour SIPs, (3) NO_X Reasonably Available Control Technology (RACT) in 8-hour nonattainment area SIP, and (4) implementation of NO_X SIP Call Phase 1 in southeastern states. Moreover, despite the legal status of the Clean Air Interstate Rule (CAIR) as remanded, many facilities have already installed or are continuing with plans to install emission controls that may benefit the Jacksonville, Tampa Bay, and Southeast Florida Areas.

There are no sources subject to CAIR or the NO_X SIP Call in the Jacksonville, Tampa Bay, and Southeast Florida Areas. Hence, the recent remand of CAIR does not affect the maintenance inventories or maintenance demonstrations in any way. Moreover, these areas were in attainment prior to implementation of these rules. As a result, any contribution to the reduction in the background ozone levels from these rules would be in addition to the projected decreases within the maintenance planning areas. These rules, even though the submittal takes no credit for emissions reductions from them, would be expected to reduce transported NO_X and ozone from outside the nonattainment area, thereby providing a further, unquantified improvement in these areas' air quality.

(c) *Ambient Air Quality Monitoring.* The table below shows design values [1] for the Jacksonville, Tampa Bay, and Southeast Florida Areas. The ambient ozone monitoring data were collected at sites that were selected with assistance from EPA and are considered representative of the areas of highest concentration. Florida will continue to depend on local air pollution control agencies in the Jacksonville, Tampa Bay, and Southeast Florida Areas to conduct ambient air quality monitoring programs for ozone in their respective areas. All monitoring programs will continue in accordance with applicable EPA monitoring requirements contained in 40 CFR part 58.

Even though 2002 is established as the base year, the actual year each of these areas monitored attainment for the 1997 8-hour NAAQS occurred prior to 2002. The Southeast Florida Area has not had a monitor design value exceed the 1997 8-hour NAAQS since the 1970s. For the Tampa Bay Area, the most recent year of a monitored 8-hour design value exceedance of the 1997 NAAQS was 2000. For the Jacksonville Area, the most recent year of a monitored NAAQS exceedance was 1989.

TABLE 5—MAXIMUM 8-HOUR OZONE DESIGN VALUES

[Ppm]

Year	Jacksonville	Tampa Bay	Southeast Florida
2001–2003	0.070	0.080	0.071
2002–2004	0.070	0.078	0.068
2003–2005	0.073	0.078	0.067
2004–2006	0.076	0.079	0.068
2005–2007	0.077	0.080	0.074
2006–2008	0.075	0.081	0.074
2007–2009	0.070	0.078	0.069

[1] The air quality design value at a monitoring site is defined as that concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based standard, the air quality design value is simply the standard-related test statistic. Thus, for the primary and secondary 1997 8-hour ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration is also the air quality design value for the site. 40 CFR part 50, Appendix I, Section 3.

Based on Table 5 above, the maximum design values identified demonstrate attainment with the 1997 8-hour ozone NAAQS. Further, these design values indicate that these maintenance areas are expected to continue attainment of the 1997 8-hour ozone NAAQS. The attainment level for the 1997 8-hour ozone standards is 0.080 parts per million (ppm), effectively 0.084 ppm with the rounding convention. However, in the event a design value for one of the Jacksonville, Tampa Bay and Southeast Florida Areas' monitors exceeds the 1997 8-hour ozone standards, one or more contingency measures included in Florida's maintenance plans for the Jacksonville, Tampa Bay and Southeast Florida Areas would be promptly implemented in accordance with the contingency plan, as discussed below.

(d) *Contingency Plan.* In accordance with 40 CFR 51.905(a)(4)(ii) and the Wegman Memorandum, the section 110(a)(1) maintenance plans include contingency provisions to promptly correct a violation of the 1997 ozone NAAQS that may occur. The indicators for triggering contingency measures for the Jacksonville, Tampa Bay, and Southeast Florida Areas are based on updates to the emission inventories. The State of Florida has established two triggers to activate contingency measures including: (1) violation of the 1997 8-hour ozone standards at any monitor and (2) a five percent or more increase in ozone precursor emissions for the emissions inventory update (for VOC or NO_X) above the 2002 emissions inventory and the ozone design value for the update year is greater than or equal to 0.081 ppm. In the maintenance plans for the Jacksonville, Tampa Bay and Southeast Florida Areas, if contingency measures are triggered, Florida is committed to implement the measures as expeditiously as practicable, including adopting one or more contingency measures within 18-months of the trigger and implementing the measures within twenty-four months of the triggering event. The contingency measures include: (1) Reinstate nonattainment new source review; (2) mandate less volatile gasoline [2]; (3) provide additional or revise existing VOC or NO_X RACT Rules; (4) expand VOC or NO_X control strategies to other counties affecting the maintenance area; (5) expand control strategies to new control technique guideline categories; (6) implement mobile source transportation control measures; and/or (7) other measures deemed appropriate by the FDEP at the time as a result of efficient and cost-effective emissions reduction.

These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Jacksonville, Tampa Bay and Southeast Florida Areas will depend, in part, on the air quality measures discussed previously (see section II). In addition, Florida along with the assistance of local air pollution control agencies and local metropolitan planning organizations commit to verify the 1997 8-hour ozone status in each maintenance plan through periodic ozone precursor emission inventory updates. Emission inventory updates will be completed by 18 months following the end of the inventory year to verify continued attainment of the 1997 8-hour ozone standards.

III. Final Action

Pursuant to section 110 of the CAA, EPA is approving the maintenance plans addressing the 1997 8-hour ozone standards in the Jacksonville, Tampa Bay, and Southeast Florida Areas in Florida, submitted by FDEP on July 2, 2009. These maintenance plans ensure continued attainment of the 1997 8-hour ozone NAAQS through the maintenance year 2014. Further, Florida has provided additional information to indicate maintenance in these areas through 2018. EPA has evaluated Florida's submittals and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial amendment 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 comment be filed. This rule will be effective on July 26, 2010 without further notice unless the Agency receives adverse comment by June 28, 2010. If 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. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on July 26, 2010 and no further action will be taken on the proposed rule.

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. 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 Clean Air Act. 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);
- 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 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

[2] States are generally preempted from prescribing low volatility fuel requirements that are different from those prescribed by EPA under CAA section 211(c)(4). Therefore, EPA notes that consideration of the preemption provisions of 211(c)(4)(A) of the CAA would be required and that this contingency could only be implemented after such time that EPA grants a waiver to allow the mandate of a low volatility fuel, under CAA section 211(c)(4)(C). *See* "Guidance on use of opt-in to RFG and low RVP requirements in ozone SIPs" at *http://www.epa.gov/otaq/regs/fuels/rvpguide.pdf* and the "Boutique fuels list under Section 1541(b) of the Energy Policy Act" at *http://www.epa.gov/EPA–AIR/2006/December/Day-28/a22313.htm.*

• 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.

The Congressional Review Act, 5 U.S.C. 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 action 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. 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 July 26, 2010. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 11, 2010.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 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 K—Florida

■ 2. Section 52.520(e) is amended by adding new entries at the end of the table for the "110(a)(1) Maintenance Plan for the Southeast Florida Area", "110(a)(1) Maintenance Plan for the Tampa Area", and "110(a)(1) Maintenance Plan for the Jacksonville, Florida Area" to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
*	*	*	*	*
110(a)(1) Maintenance Plan for the Southeast Florida Area.	July 2, 2009	July 26, 2010.	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.
110(a)(1) Maintenance Plan for the Tampa, Florida Area.	July 2, 2009	July 26, 2010,	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.
110(a)(1) Maintenance Plan for the Jacksonville, Florida Area.	July 2, 2009	July 26, 2010.	[Insert citation of publication].	110(a)(1) maintenance plan for 1997 8-hour ozone NAAQS.

[FR Doc. 2010–12660 Filed 5–26–10; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 90, and 95

[WP Docket No. 07–100; FCC 10–75]

PLMR Licensing; Frequency Coordination and Eligibility Issues

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification.

SUMMARY: In this document, the Commission, on its own motion, clarifies certain rules adopted in a previous decision in this proceeding to further explain our analysis underlying this decision. We also clarify the rule change removing the frequency coordination requirement for applications to modify private land mobile radio licenses by reducing the authorized bandwidth.

FOR FURTHER INFORMATION CONTACT: Scot Stone, Wireless Telecommunications Bureau, at (202) 418–0638, or by e-mail at *Scot.Stone@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's *Order on Reconsideration* in WP Docket No. 07–100, FCC 10–75, adopted on May 4, 2010, and released on May 6, 2010. This document is available to the public at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–10–75A1.doc.*

Synopsis of the Order on Reconsideration

1. In this *Order on Reconsideration,* we act on our own motion to clarify the bases for certain rule changes adopted in the above-captioned proceeding. In the *Second Report and Order* published at 75 FR 19277, April 14, 2010, in this proceeding, we amended our rules to provide that Wireless Medical Telemetry Service (WMTS) operations are not permitted in the portions of the 1427–1432 MHz band where non-medical telemetry has primary status. We take this opportunity to further explain our analysis underlying this decision. We also clarify the rule change removing the frequency coordination requirement for applications to modify