

affect the dignity and solemnity of the cemetery environment or that the emblem does not meet the technical requirements for inscription, the Under Secretary shall notify the applicant in writing and offer to the applicant the option of either:

(i) Omitting the part of the emblem that is problematic while retaining the remainder of the emblem, if this is feasible, or

(ii) Choosing a different emblem to represent the religious or functionally equivalent belief that does not have such an adverse impact.

Applicants will have 60 days from the date of the notice to cure any adverse impact or technical defect identified by the Under Secretary. Only if neither option is acceptable to the applicant, the applicant's requested alternative is also unacceptable, or the applicant does not respond within the 60-day period, will the Under Secretary ultimately deny the application.

(3) If the Under Secretary determines that the request should be denied and that decision is based wholly or partly on information received from a source other than the applicant, then the following procedure will be followed:

(i) A tentative decision denying the request will be prepared;

(ii) Written notice of the tentative decision accompanied by a copy of any information on which the Under Secretary intends to rely will be provided to the applicant;

(iii) The applicant will have 60 days from the date of the written notice specified in subparagraph (ii) to present evidence and/or argument challenging the evidence and/or tentative decision; and

(iv) The Under Secretary will consider the applicant's submission under subparagraph (iii) and will issue a final decision on the request.

(4) The Director, Office of Field Programs, will provide the individual who made the request written notice of the Under Secretary's decision.

**Authority:** (38 U.S.C. 501, 2404).

[FR Doc. E9-12650 Filed 5-29-09; 8:45 am]

**BILLING CODE 8320-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51 and 52**

[EPA-HQ-OAR-2003-0062; FRL-8910-6]

RIN 2060-AN86

**Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)**

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

**ACTION:** Final rule; notice of grant of reconsideration and administrative stay of regulation.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is providing notice that through a letter signed on April 24, 2009, EPA has granted a petition for reconsideration dated February 10, 2009, submitted by Earthjustice on behalf of the National Resources Defense Council (NRDC) and the Sierra Club, with respect to the final rule titled, "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)," published on May 16, 2008. In addition, EPA has administratively stayed one of the provisions to which the petitioners objected—a "grandfathering" provision for PM<sub>2.5</sub> contained in the federal prevention of significant deterioration (PSD) program. The EPA will publish notification in the **Federal Register**

establishing a comment period and opportunity for a public hearing for the reconsideration proceeding.

The petition for reconsideration and request for administrative stay can be found in the docket for the May 16, 2008 rule. The EPA considered the petition for reconsideration and request for stay, along with information contained in the rulemaking docket, in reaching a decision on both the reconsideration and the stay.

**DATES:** Effective June 1, 2009, 40 CFR 52.21(i)(1)(xi) is stayed for a period of three months, until September 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dan deRoeck, Air Quality Policy Division, (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-5593; or e-mail address: [deroeck.dan@epa.gov](mailto:deroeck.dan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. How Can I Get Copies of This Document and Other Related Information?**

This **Federal Register** notice, the petition for reconsideration and the letter granting reconsideration and an administrative stay of the grandfathering provision under the federal PSD program at 40 CFR 52.21(i)(1)(xi) are available in the docket that EPA has established for the final rule titled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)," published on May 16, 2008 at 73 FR 28321, under Docket ID No. EPA-HQ-OAR-2003-0062. The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA's response, and the document identification number for EPA's response.

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
National Resources Defense Council/Sierra Club .....	2/10/2009	0281	4/24/2009	0282

Note that all document numbers listed in the table are in the form of "EPA-HQ-OAR-2003-0062-xxxx."

All documents in the docket are listed on the <http://www.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 <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2003-0062, EPA West, Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and

the telephone number for the EPA Docket Center is (202) 566-1742.

In addition to being available in the docket, an electronic copy of this **Federal Register** notice and EPA's response letter to the petitioners are also available on the World Wide Web at <http://www.epa.gov/nsr>.

**II. Judicial Review**

Under Clean Air Act section 307(b), judicial review of the Agency's decision concerning the stay is available only by

filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before July 31, 2009.

Dated: May 22, 2009.

**Lisa P. Jackson,**  
Administrator.

■ For reasons discussed in the preamble, the EPA amends 40 CFR part 52 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.*

#### **§ 52.21 [Amended]**

■ 2. Effective June 1, 2009, in § 52.21, paragraph (i)(1)(xi) is administratively stayed until September 1, 2009.

[FR Doc. E9-12572 Filed 5-29-09; 8:45 am]

**BILLING CODE 6560-50-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[EPA-R04-OAR-2008-0797-200824(a); FRL-8911-5]**

#### **Approval and Promulgation of Air Quality Implementation Plans: South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for Cherokee County**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the South Carolina State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for Cherokee County, South Carolina. This maintenance plan was submitted for EPA action on December 13, 2007, by the State of South Carolina, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) through the year 2014. EPA is approving the SIP revision pursuant to section 110 of the Clean Air Act (CAA). The maintenance plan meets all the statutory and regulatory requirements, and is consistent with EPA's guidance. On March 12, 2008, EPA issued a revised ozone standard. Today's action, however, is being taken to address requirements under the 1997 8-hour ozone standard. Requirements for the Cherokee County Area under the 2008 8-hour ozone standard will be addressed in the future.

**DATES:** This rule is effective on July 31, 2009 without further notice, unless EPA receives relevant adverse comment by July 1, 2009. 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-2008-0797, 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](mailto:benjamin.lynorae@epa.gov).

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2008-0797," 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 to 4:30, excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. "EPA-R04-OAR-2008-0797." 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Zuri Farnago, 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. Zuri Farnago may be reached by phone at (404) 562-9152 or by electronic mail address [farnago.zuri@epa.gov](mailto:farnago.zuri@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

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

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

In accordance with the CAA, the Cherokee County Area in South Carolina was designated as a nonattainment area effective November 6, 1991 (56 FR 56694) because the area did not meet the 1-hour ozone NAAQS.

On December 15, 1992, the State of South Carolina submitted a request to redesignate the Cherokee County Area