

January 17, 2003, by the State of Florida through the Florida Department of Environmental Protection. This source specific revision amends the SIP to include a variance granted to Martin Gas Sales, Inc., in Hillsborough County, Florida. The variance allows Martin Gas Sales, Inc., to forgo the postconstruction air quality and deposition monitoring for sulfur particulate emissions from the facility.

**DATES:** This direct final rule is effective June 30, 2003, without further notice, unless EPA receives adverse comment by June 2, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Heidi LeSane at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. Heidi LeSane, 404/562-  
9035.

Florida Department of Environmental  
Protection, Twin Towers Office  
Building, 2600 Blair Stone Road,  
Tallahassee, Florida 32399-2400.

**FOR FURTHER INFORMATION CONTACT:**  
Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. Heidi LeSane, 404/562-  
9035 *lesane.heidi@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Florida Administrative Code (F.A.C.) rule 62-212.600(2)(c), requires any new or modified sulfur storage and handling facility, with a throughput of elemental sulfur in all forms (solid or molten) equal to or greater than 5,000 tons per year, to conduct postconstruction air quality and deposition monitoring of sulfur particulate matter for two years from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, to establish the period of time, if any, such monitoring must be continued after the initial two year period. The purpose of the postconstruction monitoring requirement in rule 62-212.600(2)(c), F.A.C., is to determine the impact of the facility on sulfur handling and storage operations.

Under section 120.542, of the Florida Statutes, the department may grant a

variance when the person subject to a rule demonstrates that purpose of the underlying statute will be or has been achieved by other means, or when application of a rule would create a substantial hardship or violate principles of fairness.

On August 14, 2002, Martin Gas Sales Inc., submitted a petition for variance from the requirements of rule 62-12.600(2)(c), F.A.C., for a proposed expansion of its sulfur storage and handling facility in Tampa, Florida. The petitioner estimated the potential sulfur particulate emissions from the facility to be only 1.7 tons per year. Further, the company estimated the cost of compliance with the postconstruction monitoring requirement to be between \$3,000 and \$10,000 per year. Given the low estimated annual emissions and the high cost of complying with rule 62-212.600(2)(c), F.A.C., the department has determined that postconstruction air quality and deposition monitoring of sulfur particulate emissions would not be cost effective in this case and that the purpose of the underlying statute would be met without it. Therefore, the department has issued an Order Granting Variance to Martin Gas Sales, Inc., relieving the company from the requirements of rule 62-212.600(2)(c), F.A.C. Since this rule has previously been approved into Florida's State Implementation Plan (SIP), the department is requesting approval of this variance as a revision to the SIP.

**II. Analysis of State's Submittal**

On January 17, 2003, the State of Florida Department of Environmental Protection submitted revisions to the Florida SIP. This SIP revision (DEP number 2003-01) consists of a department order granting a variance from Rule 62-212.600(2)(c), F.A.C., to Martin Gas Sales, Inc., in Hillsborough County, Florida.

**III. Final Action**

EPA is approving the aforementioned changes to the State of Florida SIP because it is consistent with the Clean Air Act and Environmental Protection Agency's policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 comments be filed. This rule will be effective June 30, 2003, without further notice unless the Agency receives adverse comments by June 2, 2003.

If the 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. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 30, 2003, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the