



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2017-0542; FRL-9983-75-Region 4]**

**Air Plan Approval; Tennessee: Knox County NSR Reform**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of several Tennessee State Implementation Plan (SIP) revisions submitted by the Tennessee Department of Environment & Conservation (TDEC), on behalf of Knox County's Air Quality Management Division, through letters dated March 7, 2017, and April 17, 2017. The SIP revisions modify the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations in the Knox County portion of the Tennessee SIP to address changes to the federal new source review (NSR) regulations in recent years for the implementation of the national ambient air quality standards (NAAQS). Additionally, the SIP revisions include updates to Knox County's minor source permitting regulations. This action is being approved pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule will be 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-2017-0542. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not 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](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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:** Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation 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) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What action is EPA Taking?**

EPA is finalizing approval of changes to the Knox County portion of the Tennessee SIP regarding PSD and NNSR permitting, as well as updates to minor NSR, submitted by TDEC on behalf of Knox County's Air Quality Management Division.

On March 7, 2017, Tennessee submitted two SIP revisions updating Knox County's Air Quality Management Regulations, Section 41.0 entitled "Regulations for the Review of New

Sources,” and Section 45.0 entitled “Prevention of Significant Deterioration.”<sup>1</sup> On April 17, 2017, Tennessee submitted two additional SIP revisions, including additional changes to Section 41, and updates to Section 25.0 entitled “Permits.”<sup>2</sup> These SIP revisions are meant to address changes to the federal NSR regulations, as promulgated by EPA in various rules. EPA is finalizing approval of the aforementioned SIP submittals in their entirety. Additional detail on these submittals, as well as the analysis of the changes and our rationale for approving them is presented in EPA’s June 20, 2018, proposed rulemaking. *See* 83 FR 28568

## **II. Background**

Tennessee’s March 7, 2017, SIP revisions make changes to Knox County’s Air Quality Regulations, Section 41.0 - “Regulations for the Review of New Sources” and Section 45.0 - “Prevention of Significant Deterioration” to address changes to the federal NSR regulations, as promulgated by EPA in the 2002 NSR Reform Rules, and subsequent changes in other relevant rulemakings.

As part of the changes to Section 41 and Section 45, Knox County adopted all the necessary provisions of the federal NNSR rules (found in 40 CFR 51.165) and the federal PSD rules (found in 40 CFR 51.166) to make them consistent with, and in some cases more stringent than, the federal rules. These changes included the adoption of several definitions in the federal PSD and NNSR rules, such as the definition of “regulated NSR pollutant,” as well as provisions regarding major NSR applicability procedures, actual-to-projected-actual applicability tests,

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<sup>1</sup> EPA notes that the Agency may not have received the submittal on this date, which is the date of the State submittal’s cover letter.

<sup>2</sup> EPA notes that the Agency may not have received the submittal on this date, which is the date of the State submittal’s cover letter.

plantwide applicability limits (PALs), and recordkeeping. Additionally, in the changes included in the March 7, 2017, SIP submittal, Knox County adopted the provisions of EPA's Ozone Phase 2 Rule.

The April 17, 2017, SIP revision included two changes to the Knox County portion of the Tennessee SIP, one making additional changes to Section 41, and another updating Section 25.0 - "Permits." The revisions to Section 41 include additional changes to address several updates to the federal PSD rules regarding the PM<sub>2.5</sub> NAAQS. As part of the revisions to Section 25, Knox County amends subsections 25.1 - "Construction Permit," and 25.3 - "Operating Permit," to include changes to its NSR construction and operating permit regulations, as well as its minor NSR program.

As mentioned above, EPA published a notice of proposed rulemaking on June 20, 2018 (83 FR 28568), proposing to approve the changes from Tennessee's March 7, 2017, and April 17, 2017, SIP revisions. The proposed rulemaking contains more detailed information regarding the Tennessee SIP revisions being approved and explains the rationale for this action. Comments on the proposed rulemaking were due on or before July 20, 2018. EPA received no relevant comments.

### **III. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Knox County's Air Quality Management Regulations, Section 25.1 - "Construction Permit," which is state effective January 18, 2017; Section 25.3 - "Operating

Permits,” which is state effective January 18, 2017;<sup>3</sup> Section 41.0 – “Regulations for the Review of New Sources,” which is state effective January 18, 2017; and Section 45.0 – “Prevention of Significant Deterioration,” which is state effective July 20, 2016. These revisions amend Knox County’s NSR rules to address several changes to the federal NSR regulations, as promulgated by EPA in the 2002 NSR Reform Rules and subsequent actions. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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 SIP, 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.<sup>4</sup>

#### **IV. Final Action**

EPA is finalizing approval of the revisions presented in Tennessee’s March 7, 2017, and April 17, 2017, SIP submittals consisting of changes to Knox County’s Air Quality Management Regulations, Section 41.0 entitled “Regulations for the Review of New Sources,” Section 45.0 entitled “Prevention of Significant Deterioration,” and Section 25.0 entitled “Permits.”

#### **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 Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices,

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<sup>3</sup> EPA is also reformatting the identification of the SIP-approved portions of Section 25.0 – “Permits” in 40 CFR 52.2220(c) for ease of reference.

<sup>4</sup> *See* 62 FR 27968 (May 22, 1997).

provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are 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
- Do 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 [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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 4, 2018.

Onis “Trey” Glenn, III  
Regional Administrator,  
Region 4

40 CFR part 52 is amended 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 RR - Tennessee**

2. Section 52.2220(c) is amended in Table 3 by:

a. Removing the entry for “25.0;”

b. Adding the heading “Section 25.0 – Permits” and entries for “25.1,” “25.3,” and “25.2; 25.4; 25.5; 25.6; 25.7; 25. 10; 25.11” in numerical order; and

c. Revising the entries for “41.0” and “45.0”.

The additions and revisions read as follows:

**§52.2220 Identification of plan.**

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(c) \* \* \*

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**TABLE 3—EPA APPROVED KNOX COUNTY, REGULATIONS**

State section	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
<b>Section 25.0 - Permits</b>				
25.1	Construction Permit	1/18/2017	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	

25.3	Operating Permit	1/18/2017	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
25.2; 25.4; 25.5; 25.6; 25.7; 25.10; 25.11	Application for Permit; Compliance Schedule; Reporting of Information; Exemptions; Payment of Fees; Permit by Rule; Limiting a Source's Potential to Emit of VOC by Recordkeeping	3/12/2014	4/22/2016, 81 FR 23640	
**	**	*	*	*
41.0	Regulation for the Review of New Sources	1/18/2017	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
45.0	Prevention of Significant Deterioration	7/20/2016	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	
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[FR Doc. 2018-20041 Filed: 9/14/2018 8:45 am; Publication Date: 9/17/2018]