



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0004; FRL-9997-38-Region 4]

**Air Plan Approval; TN; Updates to the National Ambient Air Quality Standards for
Chattanooga**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve a revision to the Chattanooga portion of the Tennessee State Implementation Plan (SIP), provided by the State of Tennessee, through the Tennessee Department of Environment and Conservation from Chattanooga/Hamilton County Air Pollution Control Bureau by a letter dated September 12, 2018. The revision updates the National Ambient Air Quality Standards (NAAQS) in the Chattanooga portion of the Tennessee SIP. The amendments in the Tennessee SIP reflect recent revisions made to the federal NAAQS. EPA is approving the changes because they are consistent with the Clean Air Act (CAA or Act).

DATES: This rule will be effective **[Insert 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2019-0004. All documents in the docket are listed on the 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 or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the 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: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare for six criteria pollutants: ozone, particulate matter (PM) (including fine particulate matter, or PM_{2.5}), carbon monoxide, lead, sulfur dioxide, and nitrogen dioxide. The CAA requires periodic review of the air quality criteria, the science upon which the standards are based, and the standards themselves. EPA's

regulatory provisions that govern the NAAQS are found at 40 CFR 50, *National Primary and Secondary Ambient Air Quality Standards*.

EPA is taking final action to approve changes to the Chattanooga portion of the Tennessee SIP that were provided to EPA through a letter dated September 12, 2018.¹ EPA is finalizing approval of the portions of this SIP revision that make changes to air quality rules in Part II, Chapter 4, Article II, Section 4-41.² The September 12, 2018, SIP revision makes changes to the SIP that deletes the current version and substitutes a revised version of Part II, Chapter 4, Article II, Section 4-41, Rule 21 of the Chattanooga City Code “Ambient Air Quality Standards.” Hamilton County revised its rule to be consistent with changes to the federal NAAQS.

In a notice of proposed rulemaking (NPRM) published on March 29, 2019 (84 FR 11917), EPA proposed to approve the aforementioned changes to Part II, Chapter 4, Article II, Section 4-41 in the Chattanooga portion of the Tennessee SIP, which address the NAAQS. The NPRM provides additional details regarding EPA’s action. Comments on the NPRM were due on or before April 29, 2019.

II. Response to Comments

EPA received one potentially adverse comment on its March 29, 2019, NPRM. This comment is provided in the docket for today's final action. EPA has summarized and responded to the comment below.

Comment: The Commenter notes that “high levels of ground level ozone, airborne

¹ EPA notes that the Agency received the SIP revision on September 18, 2018.

² As discussed in the NPRM, EPA does not recognize gaseous fluorides as criteria pollutants and EPA is not acting to approve the standard related to gaseous fluorides. *See* 84 FR 11917, n.4.

particles and other matter” pose a threat to human health, “making this proposal a public concern.” The Commenter also states that any changes to the SIP “must consider any changes in location of monitoring sites, protocol of air quality monitoring and quality standards sample so that there is no heteroskedasticity which could lead to corruption of time measure data.” According to the Commenter, if any of these changes have been made, “further scrutiny should be made concerning the motive or whether data has been skewed in favor of noncompliance.” The Commenter further states that it is “important that careful consideration and verification be given to this proposed revision.”

Response: It is unclear how the commenter would like EPA to change the proposed rule. To the extent the commenter is concerned about the health effects of air pollution, EPA notes that final approval of this SIP revision will incorporate more protective NAAQS into the Chattanooga portion of the Tennessee SIP. To the extent the commenter is concerned about air quality monitoring, these concerns are outside of the scope of this rulemaking, which updates Tennessee’s SIP solely to reflect the current NAAQS. Tennessee’s SIP revision does not change the location of any monitoring sites or any air quality monitoring plans. EPA further notes that it has carefully evaluated the SIP revision and is approving it for the reasons discussed in this notice and the NPRM.

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 changes to the Chattanooga portion of the Tennessee SIP at Part II, Chapter 4, Article II, Section 4-41, Rule 21, state effective January 23, 2017. EPA has made, and will

continue to make, these materials generally available through 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 State implementation plan, 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.³

IV. Final Action

EPA is taking final action to approve changes to Part II, Chapter 4, Article II, Section 4-41, Rule 21, of the Chattanooga portion of the Tennessee SIP because the changes are consistent with section 110 of the CAA.

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, provided that they meet the criteria of the CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

³ *See* 62 FR 27968 (May 22, 1997).

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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
- 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).

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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Lead, Carbon Monoxide.

Dated: July 18, 2019.

Mary S. Walker,
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), Table 4, is amended under Article II. Section 4-41 Rules, Regulations, Criteria, Standards by revising the entry for “Section 4-41 Rule 21” to read as follows:

§ 52.2220 Identification of plan.

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(c) * * *

TABLE 4 – EPA-APPROVED CHATTANOOGA REGULATIONS

State section	Title/subject	Adoption date	EPA approval date	Explanation
**	**	*	*	*
Article II. Section 4-41 Rules, Regulations, Criteria, Standards				
**	**	*	*	*
Section 4-41 Rule 21	Ambient Air Quality Standards	1/23/17	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	With the exception of the portions related to the standard for gaseous fluorides, which are not approved into the SIP.
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[FR Doc. 2019-16194 Filed: 7/30/2019 8:45 am; Publication Date: 7/31/2019]