



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0171; FRL-10000-73-Region 4]

Air Plan Approval; Tennessee: Knox County Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve several Tennessee State Implementation Plan (SIP) revisions submitted by the Tennessee Department of Environment and Conservation (TDEC), on behalf of Knox County's Air Quality Management Division by a letter dated May 24, 2018. The submissions revise four sections of Knox County's Air Quality Management Regulations covering definitions, opening burning, permits and emissions reporting requirements. These actions are being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0171 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can also be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In letter dated May 24, 2018, TDEC submitted SIP revision to EPA for approval into the Knox County portion of the Tennessee SIP.¹ Specifically, the May 24, 2018, SIP revision includes changes to the following Knox County SIP-approved regulations: Section 13.0 – “Definitions,” Section 16.0 – “Open Burning,” Section 25.11 – “Limiting a Source’s Potential to Emit of VOC by Recordkeeping,” and Section 26 – “Monitoring, Recording, and Reporting.” These revisions are intended, in part, to conform Knox County’s regulations with the State of Tennessee’s SIP-approved regulations. EPA is proposing to approve the aforementioned changes

¹ EPA notes that the Agency received the SIP revision on May 29, 2018.

to the SIP. Additional detail on the analysis of the SIP submittal and our reasoning for proposing to approve the revisions are presented below.

II. Analysis of Tennessee’s Submittal

A. Section 13 – “Definitions”

The SIP revision includes the following changes to Section 13 – *Definitions*:²

- “Air Containment Source”- Under the revised definition, “Air Contaminant Source” means “any and all sources of emissions of air contaminants, whether privately or publicly owned or operated.” The definition was revised by removing the phrases “into the outdoor atmosphere” and “including stationary and mobile sources” from this sentence. The submission also revises the list of sources that are included in the definition by changing the term “residences” to “multiple family residences;” adding “piles” and “all stack and other chimney outlets;” and removing “salvage operations.”³ Additionally, the revision exempts from this definition certain motor vehicles manufactured prior to enactment of national vehicle emissions standards. These older vehicles were never subject to any state or local regulation concerning emission controls and the change will not affect the way mobile source emissions for the on-road source category are accounted for in air quality modeling. Overall, the revisions conform the Knox County definition to the definition in Tennessee’s SIP-approved rules and will not change the regulatory status of any sources under the rules.

- “Air Curtain Destructor”- The term “Air Curtain Destructor” is revised to “Air Curtain

² See the May 24, 2018 SIP revisions for full regulatory text. The SIP revisions are located in the docket for these proposed actions.

³ The definition provides that the list of source categories specifically identified as included under this definition does not limit the generality of the term “Air Contaminant Source,” as defined in the first sentence.

Destructor or Air Curtain Incinerator.” The definition is revised to conform to the definition for such devices in the County’s SIP-approved regulations for “Open Burning” at Section 16.2. Among other changes, the revision provides that portable or stationary combustion devices are specifically covered.

- “Continuous Monitoring”- The SIP revision adds the term “ambient” to the definition to clarify the meaning of “concentration” as used. Thus, under the revised definition, “Continuous Monitoring” means “the sampling and analysis of air contaminants in a continuous or timed sequence, using techniques which will adequately reflect actual emissions levels or ambient concentrations on a continuous basis.”
- “Emissions”- The SIP revision changes the defined term to “Emission,” removes “air contaminant into the outdoor atmosphere” and replaces it with “material to the ambient air” to clarify the definition. Thus, under the revised definition, “Emission’ shall mean the release of material to the ambient air.”
- “Equivalent Method”- The revision adds more details and stipulations to the definition to require that the equivalent method must have a “quantitatively known” relationship to a reference method “under specific conditions.” Under the revised definition, “equivalent method” can also include any method so designated by the County’s regulations, but the Knox County portion of the Tennessee SIP under Section “27.2 Source Sampling and Analysis” provides that “[a]ny equivalent or alternative methods must first be approved by the EPA Administrator.” Therefore, under the SIP, equivalent methods may only be used upon approval by EPA.
- “Hazardous Air Containment”- The revision corrects a typographical error.

- “Incinerator”- The definition describes the types of devices, equipment, or contrivances that are considered incinerators and is modified to remove “combustion device” and a modifier that limited incinerators to such devices “specifically designed for destruction by burning of solid, semi-solid, liquid, or gaseous combustible [waste].” As revised, incinerator means “any equipment, device, or contrivance used for disposal of waste or refuse by burning, including air curtain destructors and air curtain incinerators.” The definition is revised to conform to Tennessee’s SIP-approved definition.
- “Malfunction”- The revision corrects a typographical error.
- “Modification”- The revision expands the burden of proof required of an owner or operator to establish that a change is excepted from the definition of modification and thereby does not require a construction permit to include paragraphs E and F. Paragraph E refers to operational flexibility, and minor permit modifications for major sources subject to title V permitting. Paragraph F refers to certain changes that do not result in emissions exceeding allowable levels or in the emission of any new air contaminant, and are not subject to Part C or D NSR. Previously, the burden of proof requirement for the owner or operator only extended to routine maintenance, repair, and replacement changes, and certain other changes such as increased production rate or hours of operation, the use of alternative fuels. The revision also makes typographical corrections to the definition.
- “Opacity”- The SIP revision includes several changes to the definition, including

removing reference to the Ringelmann number⁴ and removing an exclusion from obscuration of vision from uncombined water droplets. The changes align with the federal definition found in 40 CFR 60, “Standards of Performance for New Stationary Sources” (40 CFR 60.2).

- “Open Burning”- The definition is revising the term to “mean the burning of any matter under such conditions that products of combustion are emitted directly into the atmosphere without passing through any stack.” Previously, the term meant “the unconfined burning of combustible material where no equipment has been provided or used for the control of air for combustion.”
- “Particulate Matter”- The definition is modified to remove language stating that the material is considered particulate matter only “at standard conditions.” Under this changed definition, emissions would be considered particulate matter without consideration of specific ambient temperature and pressure conditions, which is consistent with EPA’s definition of particulate matter at 40 CFR 60.2.
- “PM₁₀ Emissions”- The definition is revised by stating that these emissions are “as measured by an applicable reference method, or equivalent or alternative method, specified by the regulations, or a test method specified in these regulations.” The changes also correct a typographical error. The changes are consistent with EPA’s federal regulations pertaining to “PM₁₀ emissions” at 40 CFR 50.6 and 60.2.
- “Process Emissions”- The SIP revision excludes *wigwam burners* from the definition,

⁴ The Ringelmann number is an early method used to observe smoke evaluation from point source stacks. This was a previously accepted approach to determine opacity levels which is now replaced by EPA Methods 9 and 22.

changes the term “outdoor atmosphere” to “ambient air,” and makes typographical changes. The County has historically considered wigwam burners as a type of “open burning” and, thus, have never classified the burners as “process emissions.” Excluding wigwam burners from the definition of “Process Emissions” does not exempt the burners from the Knox County opacity requirements and any visible emissions from these burners would remain subject to the 20 percent opacity limit specified in Section “17.0 Regulation of Visible Emissions.”

- “Process Weight”- The term applies to the weight of materials added to a process that may cause emissions. The SIP revision changes the description of the type of emissions from “air contaminants” to “particulate matter.” This revision does not impact the regulation of process emissions because the term “Process Weight” as used in the applicable emissions standards in Section 19 - *Regulation of Process Emissions* is specific to particulate matter.
- “Suspended Particulates”- The definition is revised to change language describing the suspended particles as particulate matter which “will” remain suspended in air for an appreciable amount of time rather than those that “may tend to” remain suspended in air. The defined term, “Suspended Particulates” is a subset of the term Total Suspended Particulates (TSP). Knox County defines TSP as particulate matter as measured by the method described in Appendix B, 40 CFR 50. Historically, EPA regulated TSP through a National Ambient Air Quality Standard but replaced TSP as an indicator for particulate matter with PM₁₀ in 1987. *See* 52 FR 24634 (July 1, 1987). As indicated in the definition of TSP, the revision to the term “Suspended Particulates” will not change the

methodology used to measure such emissions and therefore will not change the suspended particulate measured by the Division.

Additionally, the SIP revision includes the addition of the following definitions to the Knox County portion of the SIP: “Alternative Method,”⁵ “Continuous Emission Monitor,” “Isokinetic Sampling,” “Nonattainment Area,” “Particulate Matter Emissions,” “Part Per Billion (ppb),” “Parts Per Million (ppm),” “Political Subdivision,” “Portland Cement Plant,” “Proportional Sampling,” “Standard,” “Volatile Organic Compounds (VOC),” and “Wigwam Burner.”⁶

The revisions and additions to the definitions in Section 13 align with the SIP-approved Tennessee rules, and where applicable, federal definitions. The changes also provide clarity to terms referenced in Knox County Air Quality Management Regulations and permits.

EPA has reviewed the aforementioned changes to Knox County’s Section 13 – *Definitions* and proposes to approve the changes into the SIP. These changes are not expected to interfere with any applicable requirement of the SIP concerning attainment and reasonable further progress, or any other applicable requirement under the CAA.

B. Section 16 – “Open Burning”

The SIP revision includes a change to the definition of open burning in Section 16.2 to align with the revised definition of that term in Section 13 as discussed above. The change revises the definition to mean “burning of any matter under such conditions that products of

⁵ The Knox County portion of the TN SIP already contemplates the use of “alternative methods” under Section “27.2 Source Sampling and Analysis” where it states that “Any equivalent or alternative methods must first be approved by the EPA Administrator.” Therefore, under the SIP, alternative methods may only be used upon approval by EPA.

⁶ See the May 24, 2018 SIP revisions for the full text of these new definitions.

combustion are emitted directly into the open atmosphere without passing directly through a stack.” All applicable requirements for open burning remain unchanged and are found in Section 16 – *Open Burning*. Therefore, EPA proposes to approve the change into the SIP.

C. Section 25.11 – “Limiting a Source’s Potential to Emit of VOC by Recordkeeping”

The revision at Section 25.11-B.1.d amends the frequency for submitting emission logs to Knox County for volatile organic compound (VOC) and individual hazardous air pollutants from a monthly to a semi-annual requirement for sources limiting potential VOC emissions in accordance with Section 25.11. Sources are still required to maintain records in accordance with Section 25.11, including a 12-month rolling emissions log, and are also required to provide notification to Knox County within one week of any emissions exceedance. This revision aligns with the approach for title V major sources, including reports of excess emissions. In 1999, EPA issued a rulemaking that reduced the required reporting frequency under the General Provisions for 40 CFR parts 60, 61, and 63 from quarterly to semiannually. *See* “Recordkeeping and Reporting Burden Reduction,” 64 FR 7458 (February 12, 1999). EPA noted in its action that semiannual reporting “provides sufficiently timely information to both ensure compliance and enable adequate enforcement of applicable requirements.” *Id.* Also, changing the frequency of reporting does not change the underlying applicable requirements or emissions limitations. Therefore, EPA proposes to approve the change in frequency of applicable reporting requirements into the SIP because EPA believes the reporting frequency is sufficient to ensure compliance and adequate enforcement.

D. Section 26 – “Monitoring, Recording, and Reporting”

Knox County is adding a new regulation at Section 26.7 – *Emission Inventory*

Requirements. The rule requires stationary sources meeting the emission thresholds established in the Air Emissions Reporting Requirements (AERR) at 40 CFR 51, subpart A, to submit emissions inventory reports to the Division by June of each year. The AERR, set forth at 40 CFR part 51, subpart A, requires states to report to EPA an emission inventory of criteria air pollutants and precursors for all point sources, mobile sources, and nonpoint sources within the state. The requirements for reporting of point source emissions are outlined in Appendix A to 40 CFR part 51, subpart A, which sets an annual or triennial reporting period based on thresholds of potential to emit.

This AERR reporting requirements and schedules, promulgated December 17, 2008 (73 FR 76539), replaced the Consolidated Emissions Reporting Requirements (CERR) established on June 10, 2002 (67 FR 39602). The CERR replaced prior reporting requirements under 40 CFR part 51, subpart Q. It expanded the pollutants covered and geographic areas reporting, and served as the basis for data collection in the EIS, which is used to develop the national emissions inventory. The AERR rulemaking was promulgated in an effort to harmonize various reporting requirements for the states, including those previously established with the CERR, additional reporting required for ozone and carbon monoxide nonattainment areas, and reporting requirements under the oxides of nitrogen (NO_x) SIP Call. The AERR was later revised on February 19, 2015, to make those reporting requirements for nonattainment areas and the NO_x SIP Call optional under 40 CFR part 51, subpart A, among other changes. *See* 80 FR 8787.

The revision aligns with federal regulations, and EPA proposes to approve the addition of the rule into the SIP.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Knox County's Air Quality Management Regulations, Section 13.0 – "Definitions," state effective January 24, 2018; Section 16.0 – "Open Burning," state effective January 24, 2018; Section 25.11 – "Limiting a Source's Potential to Emit of VOC by Recordkeeping," state effective October 18, 2017; and Section 26.0 – "Monitoring, Recording, and Reporting," state effective October 18, 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).

IV. Proposed Action

EPA is proposing to approve the aforementioned changes to the Knox County portion of the Tennessee SIP because they are consistent with the CAA. EPA is proposing to approve the revisions presented in the May 24, 2018, SIP submittals that make changes to Knox County's Air Quality Management Regulations, Section 13.0 – "Definitions," Section 16.0 – "Open Burning," Section 25.11 – "Limiting a Source's Potential to Emit of VOC by Recordkeeping," and Section 26 – "Monitoring, Recording, and Reporting."

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. These proposed actions merely propose to approve state law as meeting Federal requirements and would not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions 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 Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 23, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

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