



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0359; FRL-9956-63-Region 4]

Air Plan Approval; TN; Revisions to the Knox County Portion of the TN SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on January 11, 2016. The revision was submitted by TDEC on behalf of the Knox County Department of Air Quality Management, which has jurisdiction over Knox County, Tennessee. The revision that EPA is approving amends the Knox County Air Quality Management Department's regulations, which are part of the Tennessee SIP, to address EPA's startup, shutdown, and malfunction (SSM) SIP call for Knox County. EPA is approving the January 11, 2016, SIP revision because the Agency has determined that it is in accordance with the requirements for SIP provisions under 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 Identification No. EPA-R04-OAR-2016-0359. 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, 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: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached via telephone at (404) 562-9644 and via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2015, EPA finalized an action (hereafter referred to as the “SSM SIP Action”)¹ that responded to a Sierra Club petition for rulemaking concerning state rule treatment

¹ See “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,” 80 FR 33839 (June 12, 2015).

of excess emissions by sources during periods of SSM and called for 36 states to submit corrective SIP revisions to EPA by November 22, 2016. As discussed in that action, EPA determined that Knox County Regulation 32.1(C)² is inconsistent with the fundamental requirements of CAA sections 113(e)(1), 114(c) and 304 and the credible evidence rule³ and thus issued a SIP call requiring the State to submit a corrective SIP revision addressing this provision. *See* 80 FR 33965.

On January 11, 2016, the State of Tennessee submitted a SIP revision, pursuant to a request by the Knox County Department of Air Quality Management, to address the SSM SIP Action with respect to Knox County. The revision removes the language from Knox County Regulation 32.1(C) that EPA found to be unlawful in the SSM SIP Action and replaces it with “(Reserved).” In a proposed rulemaking published on September 22, 2016 (81 FR 65313), EPA proposed to approve that SIP revision. The details of Tennessee’s SIP revision and the rationale for EPA’s action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before October 24, 2016. EPA did not receive any comments on the proposed action.

II. Incorporation by Reference

In this rule, 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 Regulation Section 32.0 entitled “Use of Evidence,” effective November 12, 2015, which replaces the language previously included in Section 32.1(C) with “(Reserved).” Therefore, these materials have been approved by EPA for inclusion in the SIP, have been

² Knox County SIP Regulation 32.1(C) is a subsection of Section 32.0, “Use of Evidence.”

³ 40 CFR 51.212(c); *see also* “Credible Evidence Revisions,” 62 FR 8314 (Feb. 24, 1997).

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 by the Director of the Federal Register in the next update to the SIP compilation.⁴ EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

III. Final Action

EPA is approving the Tennessee SIP revision consisting of replacing the language in Section 32.1(C) currently in the EPA-approved SIP for Knox County with "(Reserved)." EPA is approving the January 11, 2016 SIP revision because the Agency has determined that it is in accordance with the requirements for SIP provisions under the CAA, is otherwise consistent with the CAA, and adequately addresses the SSM SIP call with respect to the Knox County portion of the Tennessee SIP.

IV. 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. Accordingly, 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:

⁴ 62 FR 27968 (May 22, 1997).

- 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);
- 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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 1, 2016.

Heather McTeer Toney
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 under Table 3 by revising the entry for “32.0” to read as follows:

§52.2220 Identification of plan.

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(c) * * *

Table 3-EPA Approved Knox County, Regulations

State Section	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
32.0	Use of Evidence	11/12/2015	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	EPA is replacing the language in Section 32.1(C) with “(Reserved)”
**	**	*	*	*

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[FR Doc. 2016-30056 Filed: 12/15/2016 8:45 am; Publication Date: 12/16/2016]