

“major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 to

approve incorporation by reference of PM-10 stack test methods into the Maryland SIP 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 18, 2006.

Donald S. Welsh, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart V— Maryland

2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.01.04 to read as follows:

§ 52.1070 Identification of plan.

\* \* \* \* \* (c) \* \* \*

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Table with 5 columns: Code of Maryland administrative regulations (COMAR) citation, Title/subject, State effective date, EPA approval date, Additional explanation/citation at 40 CFR 52.1100. Row 1: 26.11.01, General Administrative Provisions. Row 2: 26.11.01.04, Testing and Monitoring, 6/19/06, 1/3/07 [Insert page number where the document begins], Paragraph .04c(2) is added.

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[FR Doc. E6-22414 Filed 12-29-06; 8:45 am] BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2004-TN-0004, EPA-R04-OAR-2005-TN-0009, EPA-R04-OAR-2006-0532, 200607/17(a); FRL-8265-6]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions To the Knox County Portion of the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve multiple revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to Knox County Air Quality Regulations (KCAQR) Section 16.0—“Open

Burning,” Section 25.0—“Permits,” and Section 46.0—“Regulation of Volatile Organic Compounds.” These revisions are part of Knox County’s strategy to attain and maintain the national ambient air quality standards (NAAQS). Today’s action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective March 5, 2007 without further notice, unless EPA receives adverse comment by February 2, 2007. 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: Submit your comments, identified by Docket ID Nos. EPA-R04-OAR-2004-TN-0004, EPA-R04-OAR-2005-TN-0009, and EPA-R04-OAR-2006-0532 by one of the following methods:

- 1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: louis.egide@epa.gov or hou.james@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2004-TN-0004,” “EPA-R04-OAR-2005-TN-0009,” or “EPA-R04-OAR-2006-0532,” Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency,

Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. Hand Delivery or Courier: Egide Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s official hours of business. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2004-TN-0004, EPA-R04-OAR-2005-TN-0009, or EPA-R04-OAR-2006-0532. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an “anonymous access” system, which

means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI 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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Egede Louis or James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Dr. Louis can be reached by telephone at (404) 562-9240 or via electronic mail at [louis.egide@epa.gov](mailto:louis.egide@epa.gov). The telephone number for Mr. Hou is (404) 562-8965. He can also be reached via electronic mail at [hou.james@epa.gov](mailto:hou.james@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Analysis of State Submittals**

On March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006, the State of Tennessee, through TDEC, submitted revisions to the Tennessee SIP. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to KCAQR Section 16.0—"Open Burning," Section 25.0—"Permits," and Section 46.0—"Regulation of Volatile Organic Compounds." These rule changes became effective at the county level on March 8, 2000, June 25, 2002, December 8, 2004, and December 14, 2005, respectively. These revisions were initially submitted by Knox County Air Quality Management Division for review to TDEC, which found the changes to be at least as stringent as the corresponding State requirements. TDEC then prepared the forma SIP revision submittals for EPA review. The changes included as part of the instant revisions are part of Knox County's strategy to attain and maintain the NAAQS and are approvable into the Tennessee SIP pursuant to section 110 of the CAA. The changes included in each of the four SIP submittals will be discussed below, organized by subject matter. In some cases, one rule, such as the open burning rule, may be affected by more than one of the SIP submittals. As a result, the changes discussed below are organized by rule and not SIP submittal.

**I. KCAQR Section 16.0—"Open Burning"**

All four of the SIP submittals included changes to KCAQR Section 16.0, "Open Burning." Each change is discussed below beginning with the March 16, 2000, submittal.

The March 16, 2000, SIP submittal included changes to KCAQR Section 16.4.B, which allows open fires to be set for the training and instruction of public or private fire-fighting personnel. Section 16.4.B was changed to include conditions under which the use of open burning for fire-fighting training must be conducted. These conditions include requirements that the substances to be burned must be free of asbestos and asphalt shingles; the burning is for training purposes only; and the burning will not cause a traffic hazard. As a point of clarification, Section 16.4.B, which was numbered 16.3.B at the time of the March 16, 2000, submittal, subsequently became Section 16.4.B as a result of a renumbering of Section 16.0 which is discussed below as part of one of the later SIP submittals.

The July 23, 2002, SIP submittal included changes to KCAQR Section

16.3—"Definitions," and Section 16.0—"Open Burning," including a renumbering/reorganization of Section 16.0. The changes to the definitions for Open Burning includes definitions for the terms "air curtain destructor," "air pollution emergency episode," "natural disaster," "open burning," "person," "registered sanitary landfill," and "wood waste." As a result of the renumbering/reorganization of Section 16.0, that provision now contains the following parts: Section 16.1—"Open Burning Prohibited," Section 16.2—"Definitions," Section 16.3—"Exceptions to Prohibition—Without Permit," Section 16.4—"Exceptions to Prohibition—With Permit," Section 16.5—"Open Burning Conditions—With Permit," and Section 16.6, which includes general prohibitions. Section 16.6, which lists materials not exempted by the Open Burning Rule, is one of the new sections. Changes were also made to Section 16.4.C (old Section 16.3.C). They consisted of adding specific requirements under which open burning is allowed when an air curtain destructor is used. The requirements include necessary certifications, timing, substances to be burned, and other restrictions.

The December 10, 2004, SIP submittal included changes to KCAQR Section 16.5.B prohibiting open burning on "air pollution action days." Specifically, "air pollution action days" are defined as days on which the appropriate agency within Knox County has determined that air pollution levels may potentially exceed a NAAQS. The December 10th submittal also included a new provision, Section 16.7, which provided that the use of air curtain destructors would be prohibited in the County after January 1, 2005.

The January 31, 2006, SIP submittal included changes to KCAQR Section 16.4.C and 16.4.D. On November 1, 2006, Knox County notified EPA Region 4 of its decision to withdraw Section 16.4.D. from the January 31, 2006, SIP revision. As a result, EPA reviewed the January 31, 2006, submittal as though it did not contain any changes regarding Section 16.4.D. The changes to Section 16.4.C involved the deletion of substance contained in that section, which regarded the use of air curtain destructors, and reserving it for future use. This revision is consistent with the prohibition on air curtain destructors included as part of the December 10, 2004, SIP submittal (this is discussed briefly above).

The March 16, 2000, SIP submittal also included minor changes to KCAQR Section 13.0—"Definitions" and Section 25.0—"Permits." The proposed changes

to Section 13.0 are not being addressed today and are not being affected by today's direct final action. They will be addressed in a subsequent action by EPA which will be published in the **Federal Register**. With regard to KCAQR Section 25.0—"Permits," the changes include the addition of a new section, Section 25.3.J (pertaining to operating permits), which stipulates that any violation of an operating permit is considered a violation of the permit at issue, as well as, a violation of the Knox County air regulations. This change was made to ensure consistency between the Knox County air permits program and the corresponding State of Tennessee program.

The December 10, 2004, SIP submittal discussed above with regard to the Open Burning Rule changes, also contained a proposal to adopt and incorporate by reference the State of Tennessee's rules on Stage I Vapor Recovery. These rules appear in the Tennessee Administrative Code Chapter 1200-3-18-.24.B—"Gasoline Dispensing Facilities, Stage I and Stage II Vapor Recovery." This provision now exists in Knox County air regulations under Section 46.0—"Regulation of Organic Volatile Compounds," as KCAQR Section 46.22—"Gasoline Dispensing Facilities, Stage I Vapor Recovery." Knox County's changes were made to ensure consistency with the State of Tennessee's Stage I and Stage II vapor recovery programs, which are required in newly designated nonattainment areas of the State.

All of the KCAQR changes described above, which span over four SIP submittals, include changes to KCAQR that are part of Knox County's strategy to attain and maintain air quality that is consistent with the NAAQS. According to the TDEC, the changes are at least as stringent as the Tennessee SIP, and the changes also appear to be at least as stringent as the current Knox County portion of the SIP. As a result, the above described changes are approvable pursuant to section 110 of the Clean Air Act.

## II. Final Action

EPA is approving revisions to the Knox County portion of the Tennessee SIP, submitted by the State of Tennessee on March 16, 2000, July 23, 2002, December 10, 2004, and January 31, 2006, pursuant to section 110 of the Clean Air Act. The revisions include changes to KCAQR Section 16.0—"Open Burning," Section 25.0—"Permits," and Section 46.0—"Regulation of Volatile Organic Compounds." Although the December 10, 2004, submittal also included

changes to Section 13.0—"Definitions," EPA is not taking action on that revision today. In addition, EPA is taking no action on changes included in the January 31, 2006, SIP revision regarding Section 16.4.D. of the open burning rule, because they were subsequently withdrawn by Knox County.

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 revisions should adverse comments be filed. This rule will be effective March 5, 2007 without further notice unless the Agency receives adverse comments by February 2, 2007.

If 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. 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 March 5, 2007 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.

## III. 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 distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. As a result, this action does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 March 5, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 20, 2006.  
**A. Stanley Meiburg,**  
*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 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 by revising entries in Table 3 of the Knox County portion of the Tennessee State Implementation Plan, for "Section 16.0," "Section 25.0," and "Section 46.0" to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

TABLE 3.—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 16.0	Open Burning	12/14/05	01/03/07	[Insert citation of publication].
Section 25.0	Permits	03/08/00	01/03/07	[Insert citation of publication].
Section 46.0	Regulation of Volatile Organic Compounds.	10/8/04	01/03/07	[Insert citation of publication].
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\* \* \* \* \*  
 [FR Doc. E6-22475 Filed 12-29-06; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2005-TN-0009, EPA-R04-OAR-2006-0471, EPA-R04-OAR-2006-0532, 2006014(a); FRL-8265-8]

**Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Knox County Portion of the Tennessee State Implementation Plan**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on December 21,

1999, March 15, 2000, and January 12, 2001. The revisions pertain to the Knox County portion of the Tennessee SIP and include changes to the Knox County Air Quality Regulations (KCAQR) Section 13.0—"Definitions" and Section 22.0—"Regulation of Fugitive Dust and Materials." These revisions are part of Knox County's strategy to attain and maintain the national ambient air quality standards (NAAQS), and are considered by the TDEC to be at least as stringent as the State's requirements. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule is effective March 5, 2007 without further notice, unless EPA receives adverse comment by February 2, 2007. 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:** Submit your comments, identified by Docket ID Nos. EPA-R04-OAR-2005-TN-0009, EPA-R04-OAR-2006-0471, and EPA-R04-OAR-2006-0532, by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.
  2. *E-mail:* [louis.egide@epa.gov](mailto:louis.egide@epa.gov).
  3. *Fax:* (404) 562-9019.
  4. *Mail:* "EPA-R04-OAR-2005-TN-0009," "EPA-R04-OAR-2006-0471," or "EPA-R04-OAR-2006-0532," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
  5. *Hand Delivery or Courier:* Dr. Egide Louis, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.
- Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2005-