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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0011; FRL-9952-50-Region 4]

Air Plan Approval; Tennessee; Revision and Removal of Stage I and II Gasoline Vapor Recovery Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC), for parallel processing on February 8, 2016, and in final form on July 15, 2016. This SIP revision seeks to lower applicability thresholds for certain sources subject to Federal Stage I requirements, remove the Stage II vapor control requirements, and add requirements for decommissioning gasoline dispensing facilities, as well as requirements for new and upgraded gasoline dispensing facilities in the Nashville, Tennessee Area. EPA has determined that Tennessee's July 15, 2016, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule will be effective October 20, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2016-0011. 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: Kelly Sheckler, 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. Ms. Sheckler's phone number is (404) 562-9222. She can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 15, 2016, Tennessee submitted a SIP revision to EPA seeking modifications of the Stage II and Stage I requirements in the State. First, in relation to Stage II, TDEC seeks the removal of the Stage II vapor recovery requirements from TAPCR 1200-3-18-.24 through the addition of requirements for decommissioning, and the phase out of the Stage II vapor recovery systems over a 3-year period from January 1, 2016, to January 1, 2019, in Davidson, Rutherford, Sumner, Williamson and Wilson Counties. Second, TDEC seeks to amend the Stage I requirements for gasoline dispensing facilities by adopting by reference the federal requirements of 40 CFR part 63, subpart CCCCCC and removing most of the State-specific language for Stage I vapor recovery. EPA published a proposed rulemaking through parallel processing on June 1, 2016 (81 FR 34940), to approve TDEC's February 8, 2016, draft SIP revision. The details of Tennessee's submittal and the rationale for EPA's action are explained in the proposed rule. The comment period for this proposed rulemaking closed on July 1, 2016. EPA did not receive any comments, adverse or otherwise, related to this rulemaking during the public comment period.¹ EPA noted in its June 1, 2016, proposed rulemaking that the Agency would take final action based on that proposed rulemaking only if no substantive changes were made to Tennessee's submission when it was provided to EPA in final form. On July 15, 2016, Tennessee provided its final SIP revision for the aforementioned changes and no substantive changes had been made between the submission for which EPA proposed approval and the

¹ EPA received a comment unrelated to the subject of this rulemaking. See the docket for today's rulemaking for this comment in its entirety.

submission that TDEC provided in final form on July 15, 2016.

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 TDEC Regulation TAPCR 1200-3-18-.24, entitled "Gasoline Dispensing Facilities," effective July 14, 2016. 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 by the Director of the Federal Register in the next update to the SIP compilation.² The 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 taking final action to approve Tennessee's July 15, 2016, SIP revision that changes Tennessee Gasoline Dispensing Facilities, Stage I and II Vapor Recovery, TAPCR rule 1200-03-18-.24. to: (1) Allow for the removal of the Stage II requirement and the orderly decommissioning of Stage II equipment; and (2) incorporate by reference Federal rule 40 CFR part 63, subpart CCCCCC, and remove certain non-state-specific requirements for the Stage I. EPA has determined that Tennessee's July 15, 2016, SIP revision related to the State's Stage I and II rules is consistent with the CAA and EPA's regulations and guidance.

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:

² *See* 62 FR 27968 (May 22, 1997).

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 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 (Pub. L. 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). In addition, 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 November 21, 2016. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2016.

V. Anne Heard,
Acting 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 CHAPTER 1200–3–18 VOLATILE ORGANIC COMPOUNDS by revising the entry for “Section 1200–3–18–.24” to read as follows:

§ 52.2220 Identification of plan.

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(c) * * *

EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
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CHAPTER 1200–3–18 VOLATILE ORGANIC COMPOUNDS				
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Section 1200–3–18–.24	Gasoline Dispensing Facilities	7/14/16	9/20/16 [Insert citation of publication].	
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