

- b. Revising the heading of paragraph (c); and
- c. In paragraph (c) revising each entry under 45 CSR 8 (Ambient Air Quality Standards).

The revised text read as follows:

**§ 52.2520 Identification of plan.**

\* \* \* \* \*

*(b) Incorporation by reference.*

(1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section with an EPA approved date of April 1, 2013 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval

dates on or after April 1, 2013 will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region III certifies that the rules and regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules and regulations which have been approved as part of the State implementation plan as of April 1, 2013.

(ii) EPA Region III certifies that the following source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State source-specific requirements which have been approved as part of the State implementation plan as of November 1, 2010. No additional revisions were made between November 1, 2010 and April 1, 2013.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814-2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue NW., Washington, DC 20460. For further information, call (202) 566-1742; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA-Approved Regulations and Statutes.*

**EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP**

State citation [Chapter 16-20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
*	*	*	*	*
<b>[45 CSR] Series 8 Ambient Air Quality Standards</b>				
Section 45-8-1	General .....	6/1/12	10/29/12, 77 FR 65493 .....	Filing and effective dates are revised.
Section 45-8-2	Definitions .....	6/1/12	10/29/12, 77 FR 65493 .....	
Section 45-8-3	Adoption of Standards .....	6/1/12	10/29/12, 77 FR 65493 .....	Effective date is revised.
Section 45-8-4	Inconsistency Between Rules .....	6/1/12	10/29/12, 77 FR 65493 .....	
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2013-17836 Filed 7-24-13; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2012-0894; FRL-9837-1]**

**Approval and Promulgation of Implementation Plans; Tennessee: New Source Review-Prevention of Significant Deterioration**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve portions of a revision to the Tennessee State Implementation Plan (SIP), submitted by the Tennessee Department of Environment and Conservation (TDEC) through the Division of Air Pollution Control, to

EPA on October 4, 2012, for parallel processing. TDEC submitted the final version of this SIP revision on May 10, 2013. The SIP revision approved in this action modifies Tennessee's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program to adopt, into the Tennessee SIP, federal regulatory requirements regarding PSD increments for fine particles with an aerodynamic diameter of less than or equal to 2.5 micrometers. EPA is approving portions of Tennessee's May 10, 2013, SIP revision because the Agency has made the determination that these portions of the SIP revision are in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

**DATES:** This rule will be effective August 26, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0894. All documents in the docket are listed on the [www.regulations.gov](http://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](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 for further information. 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:** For information regarding the Tennessee SIP, contact Ms. Twunjala Bradley, 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. Ms. Bradley's telephone number is (404) 562–9352; email address: [bradley.twunjala@epa.gov](mailto:bradley.twunjala@epa.gov). For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: [adams.yolanda@epa.gov](mailto:adams.yolanda@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Background
- II. This Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

On October 4, 2012, TDEC submitted a draft SIP revision for parallel processing. The October 4, 2012, draft SIP revision changes Tennessee's Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits*, Rule Number .01—Construction Permits, to adopt PSD requirements related to the implementation of the PM<sub>2.5</sub> NAAQS as promulgated in the rule entitled “Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),” Final Rule, 75 FR 64864 (October 20, 2010) (hereafter referred to as the “PM<sub>2.5</sub> PSD Increments-SILs-SMC Rule”). TDEC submitted its final SIP revision to EPA on May 10, 2013.

In addition, on February 26, 2013, Tennessee provided a final submission to EPA that corrects the State's definition of “regulated NSR pollutant” at Chapter 1200–03–09–.01(4)(b)47(vi) by removing the term “particulate matter (PM) emissions.” Tennessee made this change to be consistent with EPA's October 25, 2012, rulemaking entitled “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>): Amendment to the Definition of ‘Regulated NSR Pollutant’ Concerning Condensable Particulate Matter, Final Rule,” 77 FR 65107 (hereafter referred to as the “Condensable PM Correction Rule”). EPA never took action to include this term into Tennessee's SIP. Therefore, this submission is administrative in nature to correct Tennessee's state laws

and does not require any action by EPA—EPA is simply pointing out this issue for clarification purposes.

On April 22, 2013, EPA proposed to approve, through parallel processing, Tennessee's draft October 4, 2012, SIP revision to address the PM<sub>2.5</sub> increment requirements.<sup>1</sup> EPA's April 22, 2013, proposed rulemaking was contingent upon Tennessee providing a final SIP revision that was substantively the same as their October 4, 2012, draft SIP revision. See 78 FR 23704. Comments on EPA's April 22, 2013, proposed rulemaking were due on or before May 22, 2013. EPA received no comments adverse or otherwise. TDEC submitted the final version of its SIP revision on May 10, 2013. Tennessee's October 4, 2012, May 10, 2013, and February 26, 2013, submissions are provided in the docket for today's final action (Docket ID: EPA–R04–OAR–2012–0894). The SIP submittal changes are briefly summarized below. Please refer to EPA's April 22, 2013, proposed rulemaking for more detailed information regarding the state's submission as well as the Agency's rationale for today's final rulemaking.

Tennessee's May 10, 2013, final SIP revision reflects two changes from the State's October 4, 2012, draft submittal. These two changes, made by TDEC at EPA's request, were needed to make Tennessee's rule consistent with EPA's PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. As EPA explained in the April 22, 2013, proposed rulemaking, Tennessee inadvertently omitted from the October 4, 2012, draft submission certain provisions established in the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule including: (1) The Class I variances for PM<sub>2.5</sub> increments at 1200–03–09–.01(4)(n)3, and the administrative change to replace the term “particulate matter” with “PM<sub>2.5</sub>, PM<sub>10</sub>”<sup>2</sup> (consistent with federal rule at 40 CFR 51.166(c) and (p)(5)); and (2) the administrative changes to the definition of “baseline date” at 1200–03–09–.01(4)(b)15(i) and (ii)(I) to replace the term “particulate matter” with “PM<sub>10</sub>.” In the April 22, 2013, proposed rulemaking, EPA explained that TDEC had committed to addressing these inadvertent omissions in the final SIP submission. See 78 FR at 23708. Tennessee's May 10, 2013, final SIP

<sup>1</sup> EPA's April 22, 2013, proposed rulemaking stated that as a result of the January 22, 2013, D.C. Circuit decision to vacate and remand the PM<sub>2.5</sub> SILs and vacate the PM<sub>2.5</sub> SMCs as well as consultations with EPA Region 4, TDEC would request in their final SIP submission that EPA not take action to approve into the Tennessee SIP the PM<sub>2.5</sub> SILs and SMC. See 78 FR 23704.

<sup>2</sup> PM<sub>10</sub> means particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers in diameter.

revision addressed the provisions for PM<sub>2.5</sub> Increments for Class I variances and changes to the definition of “baseline date” in accordance with the October 20, 2010 rule and to appropriately implement the PSD increments for the PM<sub>2.5</sub> NAAQS.

Additionally, Tennessee's May 10, 2013, final SIP submission cover letter requested that EPA not take action to approve into Tennessee's SIP the portions of the state rule that establish PM<sub>2.5</sub> SILs (at 1200–03–09–.01(5)(b)1(xix)) and SMCs (at 1200–03–09–.01(4)(d)6(i)(III)).<sup>3</sup> Tennessee made this request to be consistent with a D.C. Circuit court decision that occurred as the State was going through its rulemaking process. See *Sierra Club v. EPA*, 705 F.3d 458 (D.C. Cir. 2013).<sup>4</sup> As requested by the State of Tennessee, EPA is not taking final action in this rulemaking on the portions of the May 10, 2013, SIP submittal related to the PM<sub>2.5</sub> SILs and SMC thresholds as promulgated in EPA's PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. Besides the abovementioned changes, there were no significant differences between Tennessee's October 4, 2012, draft SIP revision, and the State's May 10, 2013, final SIP revision to adopt the PM<sub>2.5</sub> PSD increments.

#### A. PM<sub>2.5</sub> PSD Increment SILs-SMC Rule

The PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule provided additional regulatory provisions under the PSD program regarding the implementation of the PM<sub>2.5</sub> NAAQS for NSR including: (1) PM<sub>2.5</sub> increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject

<sup>3</sup> EPA's April 22, 2013, proposed rulemaking stated that as a result of the January 22, 2013, D.C. Circuit decision to vacate and remand the PM<sub>2.5</sub> SILs and vacate the PM<sub>2.5</sub> SMCs as well as consultations with EPA Region 4, TDEC would request in their final SIP submission (to adopt permitting provisions promulgated in the PM<sub>2.5</sub> Increments-SILs-SMC Rule) that EPA not take action to approve into the Tennessee SIP the PM<sub>2.5</sub> SILs and SMC. See 78 FR 23704.

<sup>4</sup> The *Sierra Club* challenged EPA's authority to implement the PM<sub>2.5</sub> SILs and SMC for PSD purposes as promulgated in the October 20, 2010, PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. See *Sierra Club v. EPA*, 705 F.3d 458 (D.C. Cir. 2013). On January 22, 2013, the court issued an order vacating and remanding to EPA for further consideration the portions of its PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule addressing the PM<sub>2.5</sub> SILs, except for the parts codifying the PM<sub>2.5</sub> SILs in the NSR rule at 40 CFR 51.165(b)(2). The court also vacated parts of the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule establishing the PM<sub>2.5</sub> SMC, finding that the Agency had exceeded its statutory authority with respect to these provisions. The D.C. Circuit Court's decision can be found in the docket for today's rulemaking at [www.regulations.gov](http://www.regulations.gov) using docket ID: EPA–R04–OAR–2012–0894.

to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of PM<sub>2.5</sub> data gathering required for a PSD permit application. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate “significant deterioration”<sup>5</sup> of air quality for a pollutant in an area.

Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility “will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.” When a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. As described in the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical PSD increments for PM<sub>2.5</sub> as a new pollutant<sup>6</sup> for which NAAQS were established after August 7, 1977,<sup>7</sup> and derived 24-hour and annual PM<sub>2.5</sub> increments for the three area classifications (Class I, II and III) using the “contingent safe harbor” approach. See 75 FR 64869 and the ambient air increment tables at 40 CFR 51.166(c)(1) and 52.21(c). In addition to PSD increments for the PM<sub>2.5</sub> NAAQS, the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for “major source baseline date” and “minor source baseline date” (including

<sup>5</sup> Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the “maximum allowable increase” of an air pollutant allowed to occur above the applicable baseline concentration for that pollutant. Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

<sup>6</sup> EPA generally characterized the PM<sub>2.5</sub> NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM<sub>10</sub> NAAQS with the NAAQS for PM<sub>2.5</sub> when the PM<sub>2.5</sub> NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for PM<sub>2.5</sub> as if PM<sub>2.5</sub> was a new pollutant even though EPA had already developed air quality criteria for PM generally. See 75 FR 64864 (October 20, 2010).

<sup>7</sup> EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

trigger date) to establish the PM<sub>2.5</sub> NAAQS specific dates associated with the implementation of PM<sub>2.5</sub> PSD increments. See 75 FR 64864. As mentioned above, due to the January 22, 2013, D.C. Circuit court decision, TDEC requested in its May 10, 2013, final SIP submission that EPA not take action to approve the PM<sub>2.5</sub> SILs and SMC screening tools<sup>8</sup> into the Tennessee SIP.

#### B. Condensable PM Correction

Tennessee’s February 26, 2013, submission removes the term “*particulate matter emissions*” from Tennessee’s state law definition of “*regulated NSR pollutant*.” As explained above, Tennessee made this rule change to be consistent with EPA’s October 25, 2012, final Condensable PM Correction Rule, which revised the definition of “*regulated NSR pollutant*”<sup>9</sup> to remove an inadvertent requirement promulgated in the May 16, 2008 NSR PM<sub>2.5</sub> Rule.<sup>10</sup> Specifically, the NSR PM<sub>2.5</sub> Rule inadvertently established that measurement of condensable “*particulate matter emissions*”<sup>11</sup> must be included as part of the measurement and regulation of particulate matter. See 77 FR 15656. However, EPA’s final Condensable PM Correction Rule removed this inadvertent requirement from the definition of “*regulated NSR pollutant*.” See 77 FR 65107. EPA interprets Tennessee’s February 26, 2013, submittal as superseding the portion of Tennessee’s July 29, 2011,<sup>12</sup> SIP

<sup>8</sup> In the October 20, 2010, final rulemaking EPA explained that the SILs and SMCs are not required by the Act as part of an approvable SIP program; therefore states are not under any SIP-related deadline for revising their PSD programs to add these screening tools. See 75 FR 64864, 64900.

<sup>9</sup> The final rulemaking revised the definition of *regulated NSR pollutant* at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and part 51, appendix S (“Emissions Offset Interpretative Ruling”).

<sup>10</sup> The NSR PM<sub>2.5</sub> Rule entitled “Implementation of the New Source Review Program for Particulate Matter Less than 2.5 Micrometers,” Final Rule, 73 FR 28321 (May 16, 2008) revised the federal NSR program requirements at 40 CFR 51.166, 51.165, 52.21 and “Emissions Offset Interpretative Ruling” (40 CFR part 51, appendix S) to establish the framework for implementing preconstruction permit review for the PM<sub>2.5</sub> NAAQS in both attainment and nonattainment areas.

<sup>11</sup> The term “particulate matter emissions” includes filterable particles that are larger than PM<sub>2.5</sub> and PM<sub>10</sub> and is an indicator measured under various New Source Performance Standards (NSPS) (40 CFR part 60). In addition to the NSPS for PM, it is noted that states have regulated “particulate matter emissions” for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

<sup>12</sup> Tennessee’s July 29, 2011, SIP revision adopted NSR permitting requirements promulgated in the

submittal that included the term “*particulate matter emissions*” in the definition of “*regulated NSR pollutant*.” As such, there is no longer a SIP submittal to include the term “*particulate matter emissions*” in the definition of “*regulated NSR pollutant*” before the Agency, and thus, no further action is required as the provision was never approved into the SIP—EPA is simply pointing out this issue for clarification purposes.

#### II. This Action

In this rulemaking, EPA is taking final action to approve portions of Tennessee’s May 10, 2013, final SIP revision to adopt the PM<sub>2.5</sub> PSD increments promulgated in the October 20, 2010, PM<sub>2.5</sub> Increment-SILs-SMC Rule (pursuant to section 166(a) of the CAA and codified at 40 CFR 51.166) into the Tennessee SIP at Chapter 1200–03–09<sup>13</sup> including: (1) The PM<sub>2.5</sub> PSD increments at TDEC’s ambient air increments table Rule 1200–03–09–.01(4)(f); (2) revisions to the definition of “*baseline date*” at Rule 1200–03–09–.01(4)(b)15 to establish the PM<sub>2.5</sub> “*major source baseline date*” (consistent with 40 CFR 51.166(b)(14)(i)(a) and (c)) and to establish the PM<sub>2.5</sub> “*trigger date*” used for determining the “*minor source baseline date*” (consistent with 40 CFR 51.166(b)(14)(ii)(c)); and, (3) a revision to the definition of “*baseline area*” at Rule 1200–03–09–.01(4)(b)14 to specify pollutant air quality impact annual averages (consistent with 40 CFR 51.166(b)(15)(i) and (ii)). In addition, as discussed in EPA’s April 22, 2013 proposal, TDEC’s October 4, 2012, parallel processing submission did not update the state’s Class I variances (at Rule 1200–03–09–.01(4)(n)3) to include the PM<sub>2.5</sub> increments or administrative

May 16, 2008, NSR PM<sub>2.5</sub> Rule including the requirement to consider condensable PM for PSD applicability. As a result of EPA’s then March 16, 2012 (77 FR 15656), proposed Condensable PM Correction Rule Tennessee submitted a letter to EPA on May 1, 2012, requesting that EPA not approve into the Tennessee SIP the term “*particulate matter emissions*” (at rule 1200–03–09–.01(4)(b)47(vi)) as part of the definition for “*regulated NSR pollutant*.” Consistent with this request, EPA took final action to approve Tennessee’s July 29, 2011, NSR PM<sub>2.5</sub> Rule SIP revision on July 30, 2012, excluding the term “*particulate matter emissions*,” and at the time did not act on the portion of Tennessee’s revised “*regulated NSR pollutant*” definition as requested by the State. See 77 FR 44481.

<sup>13</sup> Tennessee currently has a SIP-approved NSR program for new and modified stationary sources. TDEC’s PSD preconstruction rules are found at Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits*, Rule Number .01—Construction Permits and apply to major stationary sources or modifications constructed in areas designated attainment areas or unclassifiable/attainment areas as required under part C of title I of the CAA with respect to the NAAQS.

amendments to the definition of “baseline area” (at Rule 1200–03–09–.01(4)(b)15(i) and (ii)(I)) established in the October 20, 2010, rule and codified at 40 CFR 51.166. *See* 77 FR 68279. Tennessee’s May 10, 2013, final submission adopting the PM<sub>2.5</sub> PSD increments addresses the two abovementioned provisions to be consistent with the PSD increments portion of the PM<sub>2.5</sub> Increments-SILs-SMC Rule. These changes provide for the implementation of the PM<sub>2.5</sub> PSD increments for the PM<sub>2.5</sub> NAAQS in the State’s PSD program and became state effective on April 24, 2013.

Pursuant to section 110 of the CAA, EPA is approving portions of Tennessee’s May 10, 2013, SIP revision to address PM<sub>2.5</sub> PSD increments. In EPA’s April 22, 2013, proposed rulemaking, EPA proposed not to approve into the Tennessee SIP the PM<sub>2.5</sub> SILs and SMC as a result of the January 22, 2013, D.C. Circuit Court’s decision. As requested in TDEC’s May 10, 2013, SIP submission, EPA is not taking final action at this time on any portions of Tennessee’s PSD SIP submission regarding the PM<sub>2.5</sub> SILs and SMC provisions as codified at 40 CFR 51.166 and 52.21.

### III. Final Action

EPA is taking final action to approve portions of Tennessee’s May 10, 2013, SIP revision to adopt only the PM<sub>2.5</sub> increments as amended in the October 20, 2010, PM<sub>2.5</sub> PSD Increments-SILs-SMC Rule. EPA has made the determination that these portions of Tennessee’s SIP revision are approvable because they are in accordance with section 110 of the CAA and EPA regulations regarding NSR permitting.

### 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. 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:

- 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);
- 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not 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 September 23, 2013. 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 12, 2013.

**Beverly H. Banister,**

*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. In Section 52.2220, Table 1 in paragraph (c) is amended by revising the entry for Section 1200–3–9-.01 “Definitions” to read as follows:

#### § 52.2220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

TABLE 1—EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>CHAPTER 1200–3–9 CONSTRUCTION AND OPERATING PERMITS</b>				
Section 1200–3–9-.01 .....	Definitions ...	4/24/2013	7/25/2013 [Insert citation of publication].	7/25/2013 [Insert citation of publication]—EPA is approving Tennessee's May 10, 2013, SIP revision to Chapter 1200–3–9-.01 with the exception of the PM <sub>2.5</sub> SILs (at 1200–3–9-.01(5)(b)1(xix)) and SMC (at 1200–3–9-.01(4)(d)6(i)(III)) as promulgated in the October 20, 2010, PM <sub>2.5</sub> Increments-SILs-SMC Rule. February 7, 2012 (77 FR 6016)—EPA is approving Tennessee's May 28, 2009, SIP revisions to Chapter 1200–3–9-.01 with the exception of the “baseline actual emissions” calculation revision found at 1200–3–9-.01(4)(b)45(i)(III), (4)(b)45(ii)(IV), (5)(b)1(xlviii)(I)(III) and (5)(b)1(xlviii)(II)(IV) of the submittal.
*	*	*	*	*

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[FR Doc. 2013–17842 Filed 7–24–13; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R04–OAR–2009–0140; FRL– 9835–7]

**Approval and Promulgation of Implementation Plans; North Carolina; Control Techniques Guidelines and Reasonably Available Control Technology****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** On May 1, 2013, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NC DENR), submitted to EPA a state implementation plan (SIP) revision to satisfy North Carolina's commitment associated with the conditional approval of its reasonably available control technology (RACT) requirements for volatile organic compound (VOC) sources located in the North Carolina portion of the Charlotte—Gastonia—Rock Hill, North Carolina—South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area”). The NC DENR May 1, 2013, SIP revision also includes additional changes to North Carolina's RACT rules. EPA is taking final action to approve a number of these SIP changes to the State's RACT

rules and to convert the existing conditional approval of VOC RACT provisions in the North Carolina SIP to a full approval under the Clean Air Act (CAA or Act). EPA has evaluated the changes to North Carolina's SIP, and has made the determination that those being approved through this action are consistent with statutory and regulatory requirements and EPA guidance.

**DATES:** *Effective Date:* This rule will be effective August 26, 2013

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0140. All documents in the docket are listed on the [www.regulations.gov](http://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](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 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9029. Ms. Spann can also be reached via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Background
- II. This Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background**

On April 30, 2004, EPA designated the bi-state Charlotte Area as a moderate nonattainment area with respect to the 1997 8-hour ozone NAAQS.<sup>1</sup> See 69 FR 23858. The bi-state Charlotte Area for the 1997 8-hour ozone NAAQS includes six full counties and one partial county in North Carolina; and one partial county in South Carolina. The North Carolina portion of the bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell County which includes Davidson and Coddle Creek

<sup>1</sup> Portions of the bi-state Charlotte Area were previously designated as a moderate nonattainment area for the 1-hour ozone NAAQS. The Area was subsequently redesignated to attainment for the 1-hour ozone NAAQS, and a maintenance plan was approved into the North Carolina SIP. The original Charlotte-Gastonia, North Carolina 1-hour moderate ozone nonattainment area consisted of Mecklenburg and Gaston counties in North Carolina.