

the Clean Air Act. 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.*).

#### *B. Submission to Congress and the Comptroller General*

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not

required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for five named sources.

#### *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 June 27, 2006. 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 approving source-specific RACT requirements for five sources in the Commonwealth of Pennsylvania 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, Nitrogen dioxide,

Ozone, Reporting and recordkeeping requirements.

Dated: April 19, 2006.

**William C. Early,**

*Acting 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 NN—Pennsylvania**

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Pennsylvania Electric Company; The Harrisburg Authority; Texas Eastern Transmission Corp; Graybec Lime, Inc.; and Techneglas, Inc. at the end of the table to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * *	* * *	* * *	* * *	* * *	* * *
Pennsylvania Electric Company ....	32-000-059	Indiana .....	12/29/94	4/28/06 [Insert page number where the document begins].	52.2020(d)(1)(n)
The Harrisburg Authority .....	22-2007	Dauphin .....	6/2/95	4/28/06 [Insert page number where the document begins].	52.2020(d)(1)(n)
Texas Eastern Transmission Corp	50-02001	Perry .....	4/12/99	4/28/06 [Insert page number where the document begins].	52.2020(d)(1)(n)
Graybec Lime, Inc .....	OP-14-0004	Centre .....	4/16/99	4/28/06 [Insert page number where the document begins].	52.2020(d)(1)(n)
Techneglas, Inc .....	40-0009A	Luzerne .....	1/29/95	4/28/06 [Insert page number where the document begins].	52.2020(d)(1)(n)

\* \* \* \* \*

[FR Doc. 06-3996 Filed 4-27-06; 8:45 am]

BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R04-OAR-2003-TN-0001, EPA-R04-OAR-2004-TN-0001-200413(a); FRL-8163-3]

### **Approval and Promulgation of Implementation Plans: Revisions to the Tennessee Nitrogen Oxides Budget and Allowance Trading Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions to the Tennessee Department of Environment and Conservation's Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program (Trading Program) submitted October 27, 2003, and December 10, 2003, by the State of Tennessee. The first revision corrects a miscalculation in Tennessee's NO<sub>x</sub> trading budget for non-electric generating units (non-EGUs) resulting from the use of an incorrect control efficiency percentage for one of the Trading Program's non-EGU sources—an Eastman Chemical Company boiler. The correction of this miscalculation results in a 147 tons per season (tps) increase in Tennessee's NO<sub>x</sub> trading budget for non-EGUs—

making its non-EGU trading budget 5,666 tps, instead of 5,519 tps, and increasing Tennessee's total State-wide NO<sub>x</sub> budget from 163,928 tpy to 164,075 tpy. Based on this correction, Tennessee's second revision reallocates trading allowances to Eastman Chemical Company—increasing the NO<sub>x</sub> trading allowances from 416 tps to 549 tps for the Eastman Chemical Company boiler.

**DATES:** This direct final rule is effective June 27, 2006 without further notice, unless EPA receives adverse comment by May 30, 2006. 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 No. EPA-R04—

OAR-2003-TN-0001 or EPA-R04-OAR-2004-TN-0001, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. E-mail: [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

3. Fax: 404-562-9019.

4. Mail: "EPA-R04-OAR-2003-TN-0001 or EPA-R04-OAR-2004-TN-0001", 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: Stacy DiFrank, 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 to 4:30, excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. "EPA-R04-OAR-2003-TN-0001 or EPA-R04-OAR-2004-TN-0001." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://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 <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 <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 <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 legal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Stacy DiFrank, 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. The telephone number is (404) 562-9042. Ms. DiFrank can also be reached via electronic mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 27, 1998, EPA published the NO<sub>x</sub> SIP Call (63 FR 57356). In the NO<sub>x</sub> SIP Call, EPA took final action to prohibit specified amounts of emissions of one of the main precursors of ground level ozone, NO<sub>x</sub>, in order to reduce ozone transport across state boundaries in the eastern half of the United States. EPA also set forth requirements for each of the affected upwind states to submit SIP revisions prohibiting those amounts of NO<sub>x</sub> emissions which significantly contribute to downwind air quality problems. In addition, EPA established state-wide NO<sub>x</sub> emissions budgets for the affected states to be met by the year 2007. See 40 CFR 51.121(e)(2). The state-wide NO<sub>x</sub> emissions budgets were calculated by assuming the emissions reductions that would be achieved by applying available, highly cost-effective controls to source categories of NO<sub>x</sub>. The source categories identified and regulated in the NO<sub>x</sub> SIP Call were electric generating units (EGUs), non-electric generating units (non-EGUs), internal combustion engines, and cement kilns. For the State of Tennessee, EPA determined the total 2007 State-wide NO<sub>x</sub> emissions budget to be 163,928 tons per season (tps), with the following 5 sub-budgets:

EGU	Non-EGU	Area	Nonroad	Highway	Total
25,814 tps	5,519 tps	13,333 tps	52,920 tps	66,342 tps	163,928 tps

See 69 FR 3015, 3016 (January 22, 2004).

To assist the states in their efforts to meet the NO<sub>x</sub> SIP Call, the NO<sub>x</sub> SIP Call final rulemaking included a model NO<sub>x</sub> allowance trading regulation, called the "NO<sub>x</sub> Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. In the NO<sub>x</sub> SIP Call, EPA explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a

regional allowance trading program that would be administered by EPA. See 63 FR 57458-57459. EPA's model NO<sub>x</sub> budget and allowance trading rule sets forth a NO<sub>x</sub> emissions trading program for large EGUs and non-EGUs. For a full description of EPA's model NO<sub>x</sub> budget trading program, see 63 FR 57514-56538 and 40 CFR part 96.

In an emissions budget and allowance trading program, the state sets an emissions trading budget for covered

sources. The trading budget limits the total number of allowances for each source covered by the program during a particular control period. After setting the trading budget, the state then assigns, or allocates, allowances to the participating entities up to the level of the trading budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO<sub>x</sub>. At the end of the control period, each source must demonstrate that its actual

emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions.

In response to the NO<sub>x</sub> SIP Call, Tennessee submitted SIP revisions in 2000, 2001, and 2003 that consisted of standards for cement kilns and a NO<sub>x</sub> Budget Trading Program for large EGU's and certain non-EGUs (Trading Program). Tennessee's Trading Program applies to all large EGUs and to non-EGUs that have a heat input capacity equal to or greater than 250 million British thermal units (mmBtu) per hour. Under the Trading Program, each NO<sub>x</sub> allowance permits a source to emit one ton of NO<sub>x</sub> during the seasonal control period. NO<sub>x</sub> allowances may be bought or sold. Unused NO<sub>x</sub> allowances may also be banked for future use, with certain limitations. Upon finding that the submittals met the requirements of Phase I of the NO<sub>x</sub> SIP Call, EPA fully approved the State's Trading Program on January 22, 2004 (69 FR 3015). Under the approved Trading Program, Tennessee's NO<sub>x</sub> trading budget was as follows:

#### TENNESSEE'S PREVIOUSLY APPROVED NO<sub>x</sub> TRADING BUDGET

Source category	Tennessee 2007 NO <sub>x</sub> Trading Program budget emissions (tps)
EGU .....	25,814
Non-EGU .....	5,519
Total .....	31, 333

In addition, and also pursuant to the Trading Program, the State made allocations under the trading budget to its EGU and non-EGU sources.

On October 27, 2003, and December 10, 2003, Tennessee submitted SIP revisions to its Trading Program. The first SIP revision submittal corrects a miscalculation in Tennessee's trading budget for non-EGUs. This miscalculation resulted from the use of an incorrect control efficiency percentage for one of the Tennessee Trading Program's non-EGU sources—an Eastman Chemical Company boiler. The correction of this miscalculation results in a 147 tps increase in Tennessee's trading budget for non-EGUs—making its non-EGU trading budget 5,666 tps, instead of 5,519 tps, and increases Tennessee's State-wide NO<sub>x</sub> budget from 163,928 tps to 164,075

tps. Based on this correction, Tennessee's second SIP revision submittal reallocates trading allowances to Eastman Chemical Company.

#### II. Analysis of Tennessee's October 27, 2003 Submittal: Correction to Non-EGU Trading Budget

At the time it developed its Trading Program, Tennessee calculated its 2007 trading budget for covered non-EGUs to be 5,519 tps. This 2007 trading budget reflects calculations for 24 units at 10 plants. The calculations, based upon EPA's NO<sub>x</sub> SIP Call methodology, require (1) the determination of an adjusted baseline emissions amount (total uncontrolled emissions) at each unit; (2) the application of a growth factor of 1.65; (3) the application of presumptive controls of 60 percent; (4) the calculation of each unit's budget—which represents the difference between the total uncontrolled emissions and the presumptively controlled emissions; and (5) the summation of the total resulting budgets for all units to establish a total non-EGU trading budget. Where units already had controls in place during the period used for the NO<sub>x</sub> SIP Call inventory, uncontrolled emissions were determined by calculating the control efficiency of those controls and adding those "controlled" emissions back into the baseline amount. Using this formula, Tennessee determined its non-EGU trading budget to be 5,519 tps. See Tennessee Rule 1200-3-27-.06(1)(f).

The State of Tennessee's SIP submittal, dated October 27, 2003, seeks EPA approval to change Tennessee's SIP (specifically Tennessee Rule 1200-3-27-.06(1)(f)) to reflect a non-EGU trading budget of 5,666 tps, instead of 5,519 tps. The basis for this change is information from Eastman Chemical Company indicating that the control efficiency for the low-NO<sub>x</sub> burners and overfire air on its wall-fired, pulverized coal boiler—Boiler Unit 016 (325-31)—was incorrectly identified as 40 percent during the development of the State's non-EGU trading budget. The correct control efficiency is 54.5 percent. Eastman Chemical Company recognized this error during preparation of its Clean Air Act title V permit application. The corrected control efficiency of 54.5 percent is calculated as follows:

- For pulverized coal, dry bottom wall-fired bituminous pre-New Source Performance Standards boilers, an emission factor of 22 pounds per ton (lb/ton) was used;
- Assuming coal at 12,500 Btu/lb, these factors are equal to 0.88 lb/mmBtu and 0.6 lb/mmBtu, respectively. Boiler Unit 016 (325-31) has a best available

control technology limit of 0.4 lb/mmBtu. This would equate to a control efficiency of  $(0.88-0.4)/0.88 = 54.5$  percent.

The original calculation of Tennessee's trading budget for Boiler Unit 016 (325-31) using the incorrect control efficiency of 40 percent was 457.776 tps, which, together with the trading budgets from other covered non-EGUs, resulted in a total non-EGU trading budget of 5,519 tps. The 457.776 tps trading budget for Boiler Unit 016 (325-31) was calculated using the following information:

- Controlled emissions for the Boiler are 416.16 tps.
- A 40 percent control efficiency reflected the control of 277.44 tps.
- When those 277.44 tps of controlled NO<sub>x</sub> emissions were added back into the baseline of 416.16 tps, the resulting adjusted baseline emissions (reflecting all uncontrolled emissions) was 693.6 tps.

In calculating the trading budget using the incorrect control efficiency figure of 40 percent, the adjusted baseline emissions for the Boiler (693.6 tps) were multiplied by the growth factor of 1.65 to render the amount of uncontrolled emissions for the Unit for the year 2007 (1,144.44 tps). A presumptive control of 60 percent was then applied to the uncontrolled emissions to render the amount of emissions that are controllable at the Boiler (686.664 tps). The difference between the 2007 uncontrolled emissions (1,144.44 tps) and the controllable emissions (686.664 tps) represented the trading budget for the Unit (457.776 tps). Thus, the original calculations for Boiler Unit 016 (325-31) were as follows:

- Total 2007 uncontrolled emissions:  $693.6 \text{ tps} \times 1.65 = 1,144.44 \text{ tps}$ .
- Presumptive controlled emissions (60 percent)  $1,144.44 \text{ tps} \times 0.6 = 686.664 \text{ tps}$ .
- Trading budget for Boiler:  $1,144.44 \text{ tps} - 686.664 \text{ tps} = 457.776 \text{ tps}$ .

However, using the corrected control efficiency of 54.5 percent (versus 40 percent) results in more uncontrolled emissions being added back into the adjusted baseline emissions amount (total uncontrolled emissions) calculated for Boiler Unit 016 (325-31) and further results in an increase to the Boiler's trading budget. That is, using the corrected control efficiency for the Boiler of 54.5 percent results in an additional 222.178 tps of controlled emissions that should have been added back into the Boiler's adjusted baseline emissions—resulting in an adjusted baseline emissions for Boiler Unit 016 (325-31) of 915.778 tps.

In calculating the trading budget using this corrected information, the adjusted baseline emissions for the Boiler (915.778 tps) are multiplied by the growth factor of 1.65 to render the amount of 2007 uncontrolled emissions for the Boiler (1,511.0337 tps). A presumptive control of 60 percent is then applied to the uncontrolled emissions to render the amount of 2007 emissions that are controllable at the Boiler (906.62022 tps). The difference between the 2007 uncontrolled emissions (1,511.0337 tps) and the controllable emissions (906.62022 tps) represents the trading budget for the Boiler (604.41348 tps). The corrected calculations for Boiler Unit 016 (325–31) are as follows:

- Uncontrolled emissions through 2007:  $915.778 \text{ tps} \times 1.65 = 1,511.0337 \text{ tps}$ .
- Presumptive controlled emissions (60 percent)  $1,511.0337 \text{ tps} \times 0.6 = 906.62022 \text{ tps}$ .
- Trading budget for Boiler:  $1511.0337 \text{ tps} - 906.62022 \text{ tps} = 604.41348 \text{ tps}$ .

The corrected calculations result in a trading budget for Boiler Unit 016 (325–31) of 604.413 tps rather than 457.776 tps. This is a difference of an additional 146.637 tps (or 147 tps when rounding up). The corrected, and additional 147 tps, revises Tennessee's total non-EGU trading budget upward—from 5,519 tps to 5,666 tps. This also revises the total Tennessee State-wide NO<sub>x</sub> budget upward from 163,928 tps to 164,075 tps.

EPA has reviewed these calculations and concurs with this revision to both the non-EGU trading budget and the overall State-wide NO<sub>x</sub> budget for Tennessee. Therefore, EPA is approving Tennessee's October 27, 2003 SIP revision. Tennessee's overall NO<sub>x</sub> emissions budgets and Trading Program budgets are now as follows:

#### TENNESSEE'S CURRENT NO<sub>x</sub> TRADING PROGRAM BUDGETS

Source category	Tennessee 2007 NO <sub>x</sub> Trading Program budget emissions (tps)
EGU .....	25,814
Non-EGU .....	5,666
Total .....	31,480

#### TENNESSEE'S CURRENT OVERALL NO<sub>x</sub> EMISSIONS BUDGETS

Source category	Tennessee 2007 NO <sub>x</sub> budget emissions (tps)
EGUs .....	25,814
Non-EGUs .....	5,666
Area Sources .....	13,333
Non-road Sources .....	52,920
Highway Sources .....	66,342
Total .....	164,075

### III. Analysis of Tennessee's December 10, 2003 Submittal: Reallocation of Allowances

In light of the above correction to Tennessee's non-EGU trading budget, the State's second SIP submittal, dated December 10, 2003, reallocates a portion of the corrected non-EGU trading budget (now 5,666 tps) to Eastman Chemical Company's Boiler Unit 016 (325–31) pursuant to the State's allocation methodology that is set out in its EPA-approved Trading Program. See Tennessee Rule 1200–3–27–.06(2), Subpart E. The reallocation provides the Eastman Chemical Company Boiler with 133 tps of additional trading allowances, for a total of 549 tps.

Under its EPA-approved Trading Program, Tennessee's NO<sub>x</sub> trading budget allowances are submitted as proposed SIP revisions to EPA for approval. See Tennessee Rule 1200–3–27–.06(1)(h)(3). The State's original EGU and non-EGU trading allowances (submitted to EPA on October 4, 2001) were approved by EPA on January 22, 2004 (69 FR 3015). With very few exceptions, Tennessee allocates allowances equivalent to 60 percent of the adjusted baseline emissions to each non-EGU unit in its Trading Program. Under the State's original (uncorrected) 5,519 tps trading budget, Tennessee allocated a total of 5,255 tps to the 24 units in its Trading Program. Of that 5,255 tps, Eastman Chemical's Boiler Unit 016 (325–31) was allocated 416 tps based upon the above-discussed erroneously calculated adjusted baseline emissions of 693.6 tps.

Tennessee's December 10, 2003, SIP submittal seeks to adjust the allocation of allowances to Boiler Unit 016 (325–31) in light of the correction to the State's non-EGU trading budget which resulted from correcting the Boiler's adjusted baseline emissions. Using the corrected adjusted baseline emissions for Boiler Unit 016 (325–31) of 915.778 tps, the portion of the non-EGU trading budget allocated to the Eastman Chemical Boiler under the State's 60% allocation methodology becomes 549

tps, rather than 416 tps (an increase of 133 tps). That is, using the State's allocation methodology, 60 percent of the Boiler's adjusted baseline emissions of 915.778 equals 549 tps.

It should be noted that the 133 tps increase in allocations to Boiler 016 (325–31) uses only a portion of the corrected non-EGU trading budget (*e.g.*, 133 tps of the 147 tps added to the trading budget after correction). The remainder of the corrected trading budget increase (14 tps) has not been re-allocated by the State. With the 133 tps allocations increase to Boiler 016 (325–31), the resulting corrected total of allocations to all non-EGUs in the State's Trading Program is 5,388 tps. This total of non-EGU allocations represents 95 percent of the State's non-EGU trading budget as required by the Trading Program (and EPA's model trading program). See Tennessee Rule 1200–3–27–.06, Subpart E, Section 92.42(c)(2).

Because Tennessee's reallocation of allowances to Eastman Chemical Company's Boiler Unit 016 (325–31) was made in accordance with the State's EPA-approved Trading Program, EPA concurs with the reallocation and is approving Tennessee's December 10, 2003, SIP submittal. The allocation to Eastman Chemical Company's Boiler 016 (325–31) is now 549 tps.

### IV. Final Action

EPA is approving the aforementioned changes to the Tennessee SIP. EPA has reviewed the State of Tennessee's justification concerning the re-calculation of non-EGU NO<sub>x</sub> emissions and concurs with Tennessee's 2007 state-wide NO<sub>x</sub> budget for non-EGUs of 5,666 tps. With this re-calculation, EPA is also approving the resulting increase in Tennessee's State-wide NO<sub>x</sub> emission budget—now at 164,075 tps. In addition, EPA has also reviewed the State's request to re-allocate allowances of the non-EGU NO<sub>x</sub> budget to Eastman Chemical Company's Boiler Unit 016 (325–31) based upon these corrections and concurs with the revised allocation of 549 tps for this Unit.

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 revision should adverse comments be filed. This rule will be effective June 27, 2006 without further notice unless the Agency receives adverse comments by May 30, 2006.

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 June 27, 2006 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.

#### 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 a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 Clean Air Act. 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 Clean Air Act. 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 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 June 27, 2006. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 19, 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 the entries in Table 1 for “Section 1200–3–27–.06” 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	Federal Register notice
* * *	* * *	* * *	* * *	* * *
Section 1200–3–27–.06 .....	NO <sub>x</sub> Trading Budget for State Implementation Plans.	October 19, 2003 .....	April 28, 2006 .....	[Insert citation of publication].
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*

[FR Doc. 06-4023 Filed 4-27-06; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 82****[FRL-8163-1]****RIN 2060-AN18****Protection of Stratospheric Ozone: The  
2006 Critical Use Exemption From the  
Phaseout of Methyl Bromide****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Final rule; technical correction.**SUMMARY:** The Environmental Protection  
Agency published in the **Federal**

**Register** of February 6, 2006, a final rule exempting methyl bromide production and import for 2006 critical uses. Specifically, EPA authorized uses that qualify for the 2006 critical use exemption, and the amount of methyl bromide that may be produced, imported, or made available from inventory for those uses in 2006. EPA's action was taken under the authority of the Clean Air Act (CAA) and reflects recent consensus Decisions taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) at the 16th and 17th Meetings of the Parties (MOPs) and the 2nd Extraordinary Meeting of the Parties (ExMOP). This document corrects an error made in the calculation of critical use allowances (CUAs) described in that document.

**DATES:** *Effective Date:* April 28, 2006.**FOR FURTHER INFORMATION CONTACT:**

Marta Montoro, Office of Atmospheric Programs, Stratospheric Protection Division, Mail Code 6205 J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343-9321; fax number: (202) 343-2337; e-mail address: [mebr.allocation@epa.gov](mailto:mebr.allocation@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does This Action Apply to Me?*

Entities potentially regulated by this action are those associated with the production, import, export, sale, application and use of methyl bromide covered by an approved critical use exemption. Potentially regulated categories and entities include:

Category	Examples of regulated entities
Industry .....	Producers, Importers and Exporters of methyl bromide; Applicators, Distributors of methyl bromide; Users of methyl bromide such as farmers of vegetable crops, fruits and seedlings, owners of stored food commodities and structures such as grain mills and processors, and government and non-government researchers.

The above table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is aware could be potentially regulated by this action. To determine whether your facility, company, business, or organization is regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**II. What Does This Correction Do?**

EPA published a rule in the **Federal Register** of February 6, 2006, (71 FR 5985), which contained an error occurring in the calculation of the allocation of critical use allowances.

The final rule document contained aggregated totals for both 2006 critical use allowances for pre-plant uses of methyl bromide and 2006 critical use allowances for post-harvest uses of methyl bromide, each measured in kilograms. The totals in Table II of the final rule labeled "ALLOCATION OF CRITICAL USE ALLOWANCES", and § 82.8(c)(1) "Allocated critical use allowances granted for specified control period," are incorrectly calculated. Consequently, this technical correction supersedes the totals found in Table II, § 82.8(c)(1), and any other place wherein the original totals are stated in the final rule.

The error occurred due to a spreadsheet miscalculation, which caused a discrepancy in the summed totals of the allocated critical use allowances. This error has been corrected and is represented in the new

numbers, provided in this technical correction, for both pre-plant and post-harvest critical uses of methyl bromide. The numerical alterations, which come as a result of this correction, are minor.

The correct total for 2006 critical use allowances for pre-plant uses of methyl bromide is 6,319,080 kilograms. The final rule, published February 6, 2006 (71 FR 5985) incorrectly stated 6,315,237 kilograms. The correct total for 2006 critical use allowances for post-harvest uses of methyl bromide is 608,569 kilograms, but was incorrectly stated in the February 6, 2006 final rule as 506,250 kilograms. For 2006, the correct total production and import amount EPA is authorizing for critical uses is 6,927,649 kilograms. The total was incorrectly stated in the February 6, 2006 final rule as 6,821,487. The correct numbers are shown in the table below.

TABLE I.—ALLOCATION OF CRITICAL USE ALLOWANCES

Company	2006 critical use allowances for pre-plant uses* (kilograms)	2006 critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp .....	3,840,406	369,856
Albemarle Corp .....	1,579,235	152,091
Ameribrom, Inc .....	872,402	84,018
TriCal, Inc .....	27,037	2,604
Total .....	6,319,080	608,569

\* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in Appendix L to 40 CFR Part 82.