

### 9.3 Live Animals

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#### 9.3.4 Adult Fowl

[Revise 9.3.4 as follows:]

Disease-free adult fowl may be mailed domestically when shipped under applicable law in accordance with 601.1.7. Adult chickens, turkeys, guinea fowl, doves, pigeons, pheasants, partridges, and quail as well as ducks, geese, and swans are mailable as follows:

a. The mailer must send adult fowl by Express Mail in secure containers approved by the manager of Mailing Standards (see 608.8.0 for address).

b. The number of birds per parcel must follow the container manufacturer limits and each bird must weigh more than 6 ounces.

c. Indemnity may be paid only for loss, damage, or rifling, and not for death of the birds in transit if there is no visible damage to the mailing container.

[Delete 9.3.5, Adult Chickens, and renumber 9.3.6 through 9.3.13 as new 9.3.5 through 9.3.12.]

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Neva R. Watson,

Attorney, Legislative.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2006-0787-200621(a); FRL-8297-4]

#### 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 approving revisions to the State Implementation Plan (SIP) submitted by the State of Tennessee, through Tennessee Department of Environment and Conservation (TDEC), on August 18, 1999 and July 16, 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 51.0—Standards for Cement Kilns. These standards set nitrogen oxides (NO<sub>x</sub>) emissions control, compliance demonstration, certification, record keeping, and reporting

requirements for Portland cement kilns in the County. The revisions were initially reviewed by TDEC, which found them to be as stringent as the State's requirements. The proposed changes are part of the Knox County strategy to meet the national ambient air quality standards (NAAQS) by reducing the emissions of NO<sub>x</sub>, a precursor of ozone formation. Because of the harmful health effects of ozone, EPA limits the amount of volatile organic compounds and NO<sub>x</sub> that can be released into the atmosphere. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule is effective June 11, 2007 without further notice, unless EPA receives adverse comment by May 14, 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 No. EPA-R04-OAR-2006-0787 by one of the following methods:

1. *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-2006-0787," 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 12 floor 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-2006-0787. 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" systems, 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*, 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* 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* 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:** 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. The telephone number is (404) 562-9240. Dr. Louis can also be reached via electronic mail at [louis.egide@epa.gov](mailto:louis.egide@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Background

On October 27, 1998, EPA published a final rule known as “NO<sub>x</sub> SIP Call.” (see 63 FR 57356). The NO<sub>x</sub> SIP Call requires 22 states, including the State of Tennessee, and the District of Columbia to meet statewide NO<sub>x</sub> emission budgets during the ozone season in order to reduce the amount of ground-level ozone that is transported across the eastern United States. The amounts of required reductions in NO<sub>x</sub> emissions were set to equal the amounts that would be achieved by applying highly cost-effective control measures to source categories available in each state. The source categories identified and regulated in the NO<sub>x</sub> SIP Call are electric generating units, non-electric generating units, internal combustion engines, and cement kilns.

In order to meet NO<sub>x</sub> SIP Call requirements, the State of Tennessee submitted SIP revisions to EPA for approval on November 7, 2000, and additional materials on January 11, 2001 and October 04, 2001. These revisions established a NO<sub>x</sub> allowance trading program for large electrical generating and industrial units, and NO<sub>x</sub> reductions for cement kilns. To reduce NO<sub>x</sub> emissions from cement kilns, the State proposed the addition of State Rule 1200-3-27-.04—Standards for Cement Kilns. EPA approved these revisions to Tennessee SIP on January 22, 2004. (See 69 FR 3015). This document addresses Knox County request to add a rule in the Knox County portion of the Tennessee SIP that is similar to the State’s.

## II. Analysis of State Submittals

On August 18, 1999, and July 16, 2001, 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 51.0—Standards for Cement Kilns. These revisions were initially submitted by Knox County for review by TDEC, which found them to be as or more stringent than State’s requirements. After conducting its own review of these revisions, EPA concurs with TDEC’s finding. The rule changes became State effective on August 12, 1999 and July 11, 2001, respectively and are part of the Knox County’s strategy to attain and maintain the NAAQS. They are approvable into the Knox County portion of the Tennessee SIP pursuant to section 110 of the CAA.

The August 18, 1999 SIP revisions proposed the addition of a new section to KCAQR, Section 51.0—Standards for Cement Kilns. The rules in this section

were designed to reduce NO<sub>x</sub> emissions by setting emissions control, compliance demonstration, certification, record keeping, and reporting requirements for Portland cement kilns in the County. In the July 16, 2001 SIP Submittal, Knox County proposed changes to KCAQR, Section 51.0 by adopting the same language used in the State’s air regulations. For example, the County eliminated the definitions for the terms “shutdown” and “startup” as related Portland cement kilns in the original rule because they were not found in the State’s rule on “Standards for Cement Kilns”.

## III. Final Action

EPA is approving the aforementioned changes to the Knox County portion of the Tennessee SIP. EPA has reviewed the Knox County’s justification concerning the addition of the standards for cement kilns into the Knox County portion of the Tennessee SIP and concurs with the changes.

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 11, 2007 without further notice, unless the Agency receives adverse comments by May 14, 2007.

If EPA receives such comments, then EPA will publish a notice 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. The 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 11, 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 a state rule implementing a Federal standard, and 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. section 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. section 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 June 11, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting

and recordkeeping requirements, Volatile organic compounds.

Dated: March 29, 2007.

**J.I. Palmer,**  
*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 adding the entry "Section 51.0" in Table 3 of the Knox County portion of the Tennessee State Implementation Plan to read as follows:

**§ 52.2220 Identification of plan.**

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(c) \* \* \*

TABLE 3.—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
51.0 .....	Standards for Cement Kilns ...	07/11/01	04/12/2007 [Insert citation of publication].	
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[FR Doc. E7-6717 Filed 4-11-07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2006-0779; FRL-8296-3]

**Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Prevention of Significant Deterioration**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is revising the Code of Federal Regulations (CFR) to give the Wisconsin Department of Natural Resources (WDNR) full regulatory responsibility for EPA-issued Prevention of Significant Deterioration (PSD) permits. WDNR has the necessary state legislative authority to take responsibility for the permits, and has demonstrated that it has adequate

resources to maintain oversight of these permits.

**DATES:** This direct final rule will be effective June 11, 2007, unless EPA receives adverse comments by May 14, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0779, by one of the following methods:

- *www.regulations.gov*: Follow the online instructions for submitting comments.
- *E-mail:* [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
- *Fax:* (312) 886-5824.
- *Mail:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours

of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office 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-R05-OAR-2006-0779. 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 information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically