

DC 20460-0001. Descriptive information and instructions for filling in the form are included in paragraphs (a)(4)(i) through (vii) of this section.

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(d) Persons required to notify under this section shall file EPA Form 7710-53 with EPA by mailing the form to the following address: Document Control Officer, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

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■ 31. Section 761.243 is amended by revising paragraph (a) to read as follows:

§ 761.243 Standard wipe sample method and size.

(a) Collect a surface sample from a natural gas pipe segment or pipeline section using a standard wipe test as defined in § 761.123. Detailed guidance for the entire wipe sampling process appears in the document entitled, "Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy," dated June 23, 1987 and revised on April 18, 1991. This document is available on EPA's Web site at <http://www.epa.gov/pcb>, or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

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■ 32. Section 761.386 is amended by revising paragraph (e) to read as follows:

§ 761.386 Required experimental conditions for the validation study and subsequent use during decontamination.

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(e) *Confirmatory sampling for the validation study.* Select surface sample locations using representative sampling or a census. Sample a minimum area of 100 cm² on each individual surface in the validation study. Measure surface concentrations using the standard wipe test, as defined in § 761.123, from which a standard wipe sample is generated for chemical analysis. Guidance for wipe sampling appears in the document entitled "Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy," available on EPA's Web site at <http://www.epa.gov/pcb>, or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), Environmental

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

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■ 33. Section 761.398 is amended by revising paragraph (a) to read as follows:

§ 761.398 Reporting and recordkeeping.

(a) Submit validation study results to the Director, Office of Resource Conservation and Recovery (5301P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, prior to the first use of a new solvent for alternate decontamination under § 761.79(d)(4). The use of a new solvent is not TSCA Confidential Business Information (CBI). From time to time, EPA will confirm the use of validated new decontamination solvents and publish the new solvents and validated decontamination procedures in the **Federal Register**.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2008-0676-200820(a); FRL-8903-6]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions to the Knox County Portion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee on April 21, 2008. The revision pertains to the Knox County Department of Air Quality Management (KCDAQM) Regulation, Section 25.0 "Permits," specifically subsection 25.6—Exemptions. This revision removes "mobile sources" from the list of exempted air contaminant sources, with respect to operating permits and reserves subsection 25.6.A. This revision is part of KCDAQM strategy to attain and maintain the National Ambient Air Quality Standards for 8-hour ozone, particulate matter (PM)_{2.5} and PM₁₀. This revision was certified by the Tennessee Department of Environment and Conservation to be at least as stringent as the State of Tennessee's existing requirements in Chapter 1200-3-9-.04 "Exemptions,"

and is being approved pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective August 24, 2009 without further notice, unless EPA receives adverse comment by July 27, 2009. If EPA receives such comments, it 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-2008-0676, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: benjamin.lynora@epa.gov.

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2008-0676," 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*: Ms. Lynora Benjamin, Chief, 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-2008-0676." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, 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 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION 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. The telephone number is (404) 562-9352. Ms. Bradley can also be reached via electronic mail at bradley.twunjala@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Analysis of Submittal

On April 21, 2008, the State of Tennessee submitted a revision to the Knox County portion of the Tennessee SIP, which included a change to the KCDAQM Regulations Section 25.0 "Permits"—Exemptions (25.6). This change was approved by the Knox County Air Pollution Control Board on January 16, 2008.

The purpose of this revision is to remove "mobile sources" (25.6.A) from the Exemption list of Section 25.6 to prevent significant sources of air pollution (e.g. large diesel generator powered rock crusher, asphalt plant or distillation units) from invoking exemptions from obtaining a major source operating permit because of potential mobility of the device. These devices use portable engines, and in some cases, the equipment is only mounted on skids, wheels, or tires without any self-propulsion capabilities, which sources interpret as a mobile source. These devices may emit significant amounts of nitrogen oxides, a precursor to ozone pollution. According to KCDAQM, the applicability of the terms stationary and mobile, in the permitting context, have been misinterpreted. Mobile sources are described in the KCDAQM Regulations Section 25.6.A as "automobiles, trucks, buses, locomotives, planes, boats, and ships." In addition, KCDAQM Regulations define "stationary source" as a fixed site producer of pollution including power plants and other facilities using industrial combustion processes. This SIP revision would prevent sources from attempting to claim exemption status for portable devices as mobile sources by removing "mobile sources" from the list of exempted sources and reserving 25.6.A. This change was certified by the State of Tennessee to be at least as stringent as existing requirements under the SIP.

II. Final Action

EPA is now taking direct final action to approve the aforementioned change to the Knox County portion of the Tennessee SIP, pursuant to section 110 of the CAA.

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 August 24, 2009 without further notice unless the Agency receives adverse comments by July 27, 2009.

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 August 24, 2009 and no further action will be taken on the proposed rule.

III. 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 voluntary consensus standards 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 August 24, 2009. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Ozone, Particulate matter.

Dated: June 15, 2009.

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. Section 52.2220(c) Table 3 is amended by revising the entry for Section 25.0 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
* * * * *				
Section 25.0	Permits	January 16, 2008	June 25, 2009 [Insert citation of publication].	
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[FR Doc. E9-14873 Filed 6-24-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket No. FTA-2008-0057]

RIN 2132-AA99

Buy America Requirements; Bi-Metallic Composite Conducting Rail

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final rule; correcting amendment.

SUMMARY: Following the two recent Buy America rulemakings pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the Federal Transit Administration (FTA) received a petition for reconsideration of the treatment of bi-metallic composite

conducting rail as a steel product that must be manufactured in the United States.

Because FTA believed adopting the petitions through a Final Rule would have altered the regulatory environment without notice-and-comment from all affected parties who may have been unaware of the petition, FTA declined to accept the petition and instead issued a Notice of Proposed Rulemaking.

Through this Final Rule, FTA is amending its Buy America regulation to include bi-metallic composite conducting rail on the list of traction power equipment. As such, bi-metallic rail need only consist of 60 percent domestic content, with final assembly taking place in the United States.

In addition, FTA is amending Appendix A of section 661.7 to restore the public interest waivers for small purchases which was inadvertently deleted and to update a cross reference to the list of products exempted under the Buy American Act of 1933, and amending statutory references in the compliance certifications in section 661.12

DATES: *Effective Date:* July 27, 2009.

FOR FURTHER INFORMATION CONTACT: Richard L. Wong, Office of the Chief Counsel, Federal Transit Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-4011 or Richard.Wong@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 24, 2008, FTA published a Notice of Proposed Rulemaking (NPRM) (73 FR 70950) seeking public comment whether bi-metallic rail used as part of a power traction system should continue to be treated as a steel or iron product under section 661.3, a manufactured product under section 661.5, or traction power equipment under section 661.11(v). This was the outgrowth of a previous Buy America rulemaking (70 FR 71246) in which the Federal Transit Administration (FTA) discussed several proposals mandated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub L. 109-59),