

activities are authorized, provided that persons subject to the jurisdiction of the United States ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

\* \* \* \* \*

Dated: January 25, 2011.

**Adam J. Szubin,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2011-1969 Filed 1-27-11; 8:45 am]

**BILLING CODE 4810-AL-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-0850; FRL-9258-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-Hour Ozone Standard; Withdrawal of Direct Final Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of an adverse comment, EPA is withdrawing the December 15, 2010 (75 FR 78164), direct final rule making determinations under the Clean Air Act that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone National Ambient Air Quality Standard. The Milwaukee-Racine area includes Milwaukee, Ozaukee, Racine, Washington, Waukesha, and Kenosha Counties. The Sheboygan area includes Sheboygan County. In the direct final rule, EPA stated that if adverse comments were submitted by January 14, 2011, the rule would be withdrawn and not take effect. On January 14, 2011, EPA received a comment. EPA believes this comment is adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on December 15, 2010 (75 FR 78197). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 75 FR 78164 on December 15, 2010, is withdrawn as of January 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs

Branch (AR-18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: January 19, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

### PART 52—[AMENDED]

Accordingly, the amendment to 40 CFR 52.2585 published in the **Federal Register** on December 15, 2010 (75 FR 78164) on page 78167 is withdrawn as of January 28, 2011.

[FR Doc. 2011-1770 Filed 1-27-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-0663-201061; FRL-9259-2]

#### Approval and Promulgation of Air Quality Implementation Plans: Tennessee; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standards for the Nashville, TN, Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the Tennessee State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standards for the Nashville, Tennessee 1997 8-hour ozone maintenance area, which is comprised of Davidson, Rutherford, Sumner, Williamson, and Wilson Counties in their entirety (hereafter referred to as the "Nashville Area"). This maintenance plan was submitted by the State of Tennessee Department of Environment and Conservation (TDEC) on August 3, 2010, for parallel processing. TDEC submitted the final version of the SIP on October 13, 2010. The maintenance plan ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2018. This plan meets the statutory

and regulatory requirements, and is consistent with EPA's guidance. EPA is taking final action to approve the revision to the Tennessee SIP, pursuant to the Clean Air Act (CAA). EPA is also in the process of establishing a new 8-hour ozone NAAQS, and expects to finalize the reconsidered NAAQS by July 2011. Today's action, however, relates only to the 1997 8-hour ozone NAAQS. Requirements for the Nashville Area under the 2011 NAAQS will be addressed in the future.

**DATES:** This rule will be effective February 28, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0663. All documents in the electronic docket are listed on the <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 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 Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Royce Dansby-Sparks, 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. Royce Dansby-Sparks may be reached by phone at (404) 562-9187 or by electronic mail address [dansby-sparks.royce@epa.gov](mailto:dansby-sparks.royce@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Background
- II. EPA Guidance and CAA Requirements
- III. Today's Action
- IV. Final Action
- V. Statutory and Executive Order Reviews

## I. Background

In accordance with the CAA, the Nashville Area was designated nonattainment for the 1-hour ozone NAAQS on November 6, 1991, 56 FR 56694 (effective January 6, 1992, 60 FR 7124). On November 14, 1994, the State of Tennessee, through the TDEC, submitted a request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS. Subsequently on August 9, 1995, and January 19, 1996, Tennessee submitted supplementary information which included revised contingency measures and emission projections. Included with the 1-hour ozone redesignation request, Tennessee submitted the required 1-hour ozone monitoring data and maintenance plan ensuring the Area would remain in attainment for the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plan submitted by Tennessee followed EPA guidance for maintenance areas, subject to section 175A of the CAA.

On October 30, 1996, EPA approved Tennessee's request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS (61 FR 55903). The maintenance plan for the Area became effective on October 30, 1996. Tennessee later updated the maintenance plan in accordance with section 175(A)(b) on August 10, 2005, to extend the maintenance plan to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of the Area to attainment. EPA approved Tennessee's maintenance plan update for the Nashville Area on November 1, 2005 (70 FR 65838).

## II. EPA Guidance and CAA Requirements

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase 1 Rule), ultimately revoking the 1-hour ozone NAAQS. The Nashville Area, however, was still required to fulfill requirements under the 1-hour ozone NAAQS due to its participation in an Early Action Compact (EAC). For areas participating in an EAC, the effective designation date for the 1997 8-hour ozone NAAQS was deferred until December 31, 2006, in a final action published by EPA on August 19, 2005 (70 FR 50988) and later extended to April 15, 2008 (71 FR 69022) for most of the EAC Areas, including Nashville, so long as the Area continued to meet

milestone requirements. Therefore, the requirement for an attainment area to submit a 10-year maintenance plan under 110(a)(1) of the CAA and the Phase 1 Rule was also postponed until the Area was effectively designated for the 1997 8-hour ozone NAAQS. The Nashville Area was later designated as attainment for the 1997 8-hour ozone NAAQS, effective April 15, 2008, with the 1-hour ozone requirements no longer effective on April 15, 2009 (73 FR 17897). Tennessee was consequently required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 Rule for the Nashville Area.

On May 20, 2005, EPA issued guidance providing information as to how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005—hereafter referred to as “Wegman Memorandum”). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Rule. *See South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Phase I Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 (of part D of the CAA), in lieu of Subpart 2 among other portions. The Court's decision did not alter any 8-hour ozone attainment area requirements under the Phase I Rule for CAA section 110(a)(1) maintenance plans.

On August 3, 2010, TDEC submitted a draft revision to EPA for approval into the Tennessee SIP to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. Subsequently, on October 8, 2010, EPA published a proposed rulemaking to approve Tennessee's August 3, 2010, SIP revision under parallel processing. 75 FR 62354. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's October 8, 2010, **Federal Register** notice. EPA's October 8, 2010, proposed approval was contingent upon Tennessee providing a final SIP revision that was substantively the same as the revision proposed for approval by EPA in the October 8, 2010, proposed rulemaking. Tennessee provided its final SIP revision on October 13, 2010. There were no changes between Tennessee's August 3, 2010, draft SIP revision and the final SIP revision

which was provided on October 13, 2010. EPA has determined that Tennessee's October 13, 2010, submittal satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Nashville maintenance area.

## III. Today's Action

EPA is taking final action to approve the SIP revision concerning the 110(a)(1) maintenance plan addressing the 1997 8-hour ozone NAAQS for the Nashville Area. This maintenance plan was submitted to EPA on October 13, 2010, by the State of Tennessee, to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. This approval action is based on EPA's analyses of whether this request complies with section 110 of the CAA and 40 CFR 51.905(a)(4). EPA's analyses of Tennessee's submittal are described in detail in the proposed rule published October 8, 2010 (75 FR 62354).

The comment period for this proposed action closed on November 8, 2010. EPA did not receive any adverse comments on this action during the public comment period. However, EPA is making note of two typographical errors in the October 8, 2010, proposed rulemaking notice (75 FR 62354). When referring to the date that the State of Tennessee requested the Nashville Area be redesignated to attainment for the 1-hour ozone NAAQS, the date was inadvertently listed as 2004 instead of 1994. Additionally, the discussion of Table 3 on page 62357 of the October 8, 2010, proposed rulemaking notice incorrectly stated that the maximum 2007–2009 8-hour ozone design value was 0.079 parts per million (ppm) when the correct value, as listed correctly in Table 3, is 0.078 ppm.

## IV. Final Action

Pursuant to section 110 of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone NAAQS for the Nashville Area, which was submitted by Tennessee on October 13, 2010, and ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2018. EPA has evaluated the State's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. On March 12, 2008, EPA issued a revised ozone NAAQS. EPA subsequently announced a reconsideration of the 2008 NAAQS, and proposed new 8-hour ozone NAAQS in January 2010. The current

action, however, is being taken to address requirements under the 1997 ozone NAAQS. Requirements for the Nashville Area under the 2011 NAAQS will be addressed in the future.

#### V. 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 March 29, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 13, 2011.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

EPA amends 40 CFR part 52 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(e), is amended by adding a new entry for "Nashville 8-Hour Ozone Maintenance Plan Section 110(a)(1)" to read as follows:

#### § 52.2220 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

EPA-Approved Tennessee Non-Regulatory Provisions

| Name of non-regulatory SIP provision                    | Applicable geographic or nonattainment area  | State effective date        | EPA approval date                              | Explanation                                            |
|---------------------------------------------------------|----------------------------------------------|-----------------------------|------------------------------------------------|--------------------------------------------------------|
| *<br>Nashville 8-Hour Ozone 110(a)(1) Maintenance Plan. | *<br>Nashville 8-Hour Ozone Attainment Area. | *<br>October 13, 2010 ..... | *<br>1/28/11 [insert citation of publication]. | *<br>Maintenance plan for the 1997 8-hour ozone NAAQS. |

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-8165]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP,

42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were

made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism.** This rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform.** This rule meets the applicable standards of Executive Order 12988.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

■ 2. The tables published under the authority of § 64.6 are amended as follows: