

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 March 6, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 7, 2005.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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 BB—Montana

■ 2. Section 52.1371 is amended by revising the introductory text and revising the entries "Helena Intrastate AQCR 142" and "Missoula Intrastate AQCR 144" in the table to read as follows:

#### § 52.1371 Classification of regions.

The Montana Emergency Episode Avoidance Plan was revised with an August 2, 2004 submittal by the Governor. The August 2, 2004 Emergency Episode Avoidance Plan classified the Air Quality Control Regions (AQCR) as follows:

Air quality control regions (AQCR)			Pollutant				
			Particulate matter	Sulfur oxide	Nitrogen dioxide	Carbon monoxide	Ozone
*	*	*	*	*	*	*	*
Helena Intrastate AQCR 142 .....			III	III	III	III	III
*	*	*	*	*	*	*	*
Missoula Intrastate AQCR 144 .....			III	III	III	III	III

[FR Doc. 05-24366 Filed 12-30-05; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R04-OAR-2005-TN-0004-200526(a); FRL-8014-6]

#### Approval and Promulgation of Implementation Plans; Tennessee and Nashville-Davidson County; Approval of Revisions to the State Implementation Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving non-regulatory revisions to the Tennessee State Implementation Plan (SIP) and regulatory revisions to the Nashville-

Davidson portion of the Tennessee SIP, submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on January 26, 1999, October 11, 2001, and April 15, 2005. The revisions amend the Vehicle Inspection and Maintenance program in Nashville-Davidson County and the Nashville (Middle Tennessee) 1-Hour Ozone Maintenance Plan.

**DATES:** This direct final rule is effective March 6, 2006 without further notice, unless EPA receives adverse comment by February 2, 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 Regional Material in EDocket (RME) ID No. R04-OAR-2005-TN-0004, by one of the following methods:

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

2. **Agency Web site:** <http://docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. **E-mail:** [hoffman.annemarie@epa.gov](mailto:hoffman.annemarie@epa.gov).

4. **Fax:** 404-562-9019.

5. **Mail:** R04-OAR-2005-TN-0004, 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.

6. **Hand Delivery or Courier.** Deliver your comments to: Anne Marie

Hoffman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th 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 to 4:30, excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R04–OAR–2005–TN–0004. 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://docket.epa.gov/rmepub/>, 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 RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are "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 RME or 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.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 RME 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:** Anne Marie Hoffman, 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) 562–9074. Ms. Hoffman can also be reached via electronic mail at [hoffman.annemarie@epa.gov](mailto:hoffman.annemarie@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On June 11, 1997, the Tennessee Air Pollution Control Board approved non-regulatory revisions to the Nashville Ozone Maintenance Plan so that the Plan would remain consistent with Rule 1200–3–29–.03, Motor Vehicle Inspection Requirements. On October 10, 2001, and April 12, 2005, the Tennessee Air Pollution Control Board approved revisions to the Nashville-Davidson County Regulation No. 8, Regulation of Emissions from Light-Duty Motor Vehicles Through Mandatory Vehicle Inspection and Maintenance Program. The final revisions, adopted on April 12, 2005, are consistent with the State of Tennessee Light-Duty Motor Vehicle Inspection and Maintenance regulations and support the Nashville-Davidson County Metropolitan Health Department's efforts to ensure attainment of the 8-hour ozone national ambient air quality standard (NAAQS).

##### **II. Analysis of State's Submittal**

The non-regulatory revision to the Nashville Ozone Maintenance Plan submitted to EPA on January 26, 1999, revises the Nashville Ozone Maintenance Plan so that the Plan remains consistent with Rule 1200–3–29–.03, Motor Vehicle Inspection Requirements. The revision to the Maintenance Plan merely updates the Plan and does not impact any emission calculations or affect any compliance rate calculations in the Maintenance Plan.

The revisions submitted to EPA on October 11, 2001, revise Regulation No. 8 of the Nashville-Davidson County

portion of the Tennessee SIP, Regulation of Emissions From Light-Duty Motor Vehicles through Mandatory Vehicle Inspection and Maintenance Program, by changing definitions, on board diagnostics requirements, and fees associated with the program.

The revisions submitted to EPA on April 12, 2005, revise Regulation No. 8 of the Nashville-Davidson County portion of the Tennessee SIP, Regulation of Emissions From Light-Duty Motor Vehicles through Mandatory Vehicle Inspection and Maintenance Program, by expanding the existing regulations to increase the vehicle test weight to 10,000 pounds (gross vehicle weight rating) and adding diesel powered vehicles from 1975 to the present year. The revisions are consistent with the State of Tennessee Light-Duty Motor Vehicle Inspection and Maintenance regulations and will improve air quality in Nashville through vehicle emissions reductions. The emissions reductions expected in the Nashville area from expansion of the inspection and maintenance program will be 0.0231 tons per day of nitrogen oxides (NO<sub>x</sub>) and 0.0455 tons per day of volatile organic compounds (VOC).

##### **III. Final Action**

EPA is approving the aforementioned regulatory and nonregulatory changes to the Tennessee SIP because they are consistent with the Clean Air Act and EPA requirements.

The 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 March 6, 2006 without further notice unless the Agency receives adverse comments by February 2, 2006.

If the 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. 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 March 6, 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. 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. 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 March 6, 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, Particulate matter, Volatile organic compounds.

Dated: December 9, 2005.

**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 is amended by:

■ a. In paragraph (c) under “Table 5—EPA Approved Nashville-Davidson County Regulations” by revising entries for “Regulation No. 8 Regulation of Emissions from Light-Duty Motor Vehicles Through Mandatory Vehicle Inspection and Maintenance Program.”

■ b. In paragraph (e) by adding new entry at the end of the table for “Nashville Ozone Maintenance Plan” to read as follows:

#### § 52.2220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

TABLE 5.—EPA-APPROVED NASHVILLE-DAVIDSON COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* Regulation No. 8 .....	* Regulation of Emissions from Light-Duty Motor Vehicles Through Man- datory Vehicle Inspec- tion and Maintenance Program.	* 4/12/05 .....	* January 3, 2006. [Insert first page of publication].	* 
*	*	*	*	*

\* \* \* \* \*

(e) \* \* \*

## EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
* Nashville 1-Hour Ozone Maintenance Plan.	* Nashville 1-Hour Ozone Maintenance Area.	* June 11, 2005. ....	* January 3, 2006 [Insert first page number of publication].	* 

[FR Doc. 05-24413 Filed 12-30-05; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81****[EPA-R03-OAR-2005-VA-0013; FRL-8012-3]****Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Shenandoah National Park area (the SNP area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the SNP area that provides for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is also approving the adequacy determination for the motor vehicle

emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for the SNP area for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the Virginia SIP in accordance with the requirements of the CAA.

**DATES:** *Effective Date:* This final rule is effective on February 2, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2005-VA-0013. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:**

Amy Caprio, (215) 814-2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On November 4, 2005 (70 FR 67109), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's redesignation request and a SIP revision that establishes a maintenance plan for the SNP area that sets forth how the SNP area will maintain attainment of the 8-hour ozone NAAQS for the next 10 years. The formal SIP revision was submitted by the VADEQ on September 21, 2005 and September 23, 2005. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR.

**II. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia**

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the