

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2023-0361; FRL-12238-02-R4]

**Air Plan Approval; Shelby County, Tennessee; Revisions to Startup, Shutdown, and Malfunction Rules****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a portion of a State Implementation Plan (SIP) revision submitted by the Tennessee Department of Environment and Conservation (TDEC) on behalf of Shelby County Health Department (SCHD) Pollution Control Section on March 2, 2022. This revision was submitted in response to a finding of substantial inadequacy and SIP call published on June 12, 2015, concerning excess emissions during startup, shutdown, and malfunction (SSM) events. The revision contains amended air codes of Shelby County and the following municipalities within Shelby County: Town of Arlington, City of Bartlett, Town of Collierville, City of Germantown, City of Lakeland, City of Memphis, and Town of Millington (referred to hereinafter as the “included municipalities”). EPA is also approving the SIP revision’s other changes to the affected Chapter, which are unrelated to the SIP call but of which Shelby County and the included municipalities are also requesting incorporation into the Shelby County portion of the Tennessee SIP. EPA is approving the portions of the SIP revision that correct certain deficiencies identified in the June 12, 2015, SSM SIP call and that are in accordance with the requirements for SIP provisions under the Clean Air Act (CAA or Act).

**DATES:** This rule is effective December 20, 2024.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R4-OAR-2023-0361. All documents in the docket are listed on the [regulations.gov](https://www.regulations.gov) website. Although listed in the index, some information may not be 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 through [www.regulations.gov](https://www.regulations.gov) or in hard copy at

the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that 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:** Estelle Bae, Air Permitting Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9143. Ms. Bae can also be reached via electronic mail at [bae.estelle@epa.gov](mailto:bae.estelle@epa.gov).

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

On March 2, 2022, Tennessee transmitted a SIP revision from SCHD in response to the SIP call issued in the June 12, 2015, action titled “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction” (“2015 SSM SIP Action”)<sup>1</sup> and requested revisions to the Shelby County portion of the Tennessee SIP.<sup>2</sup> In a notice of proposed rulemaking (NPRM) published on September 12, 2024, EPA proposed

<sup>1</sup> See 80 FR 33839 (June 12, 2015).

<sup>2</sup> See 54 FR 25456 (June 15, 1989). EPA had initially approved the City of Memphis Code into the Tennessee SIP under “Memphis and Shelby County.” See *id.* Included in “Memphis and Shelby County” are Shelby County and the following municipalities: Town of Arlington, City of Bartlett, Town of Collierville, City of Germantown, City of Lakeland, City of Memphis, and Town of Millington. Shelby County Health Department’s Air Pollution Control Branch recommends to the aforementioned municipalities regulatory revisions, which, with this approval adopts by Shelby County and these included municipalities, which implement and enforce the regulations within their respective jurisdictions. As the air pollution control regulations/ordinances adopted by those jurisdictions are substantively identical, EPA had selected just one to represent the SIP compilations for Shelby County and the included municipalities: the City of Memphis Air Code. Thus, the SIP-called provision from the Shelby County portion of the Tennessee SIP that was identified in the 2015 SSM SIP Action was City of Memphis Air Code (although it was referred to as “Shelby County Code”) Section 16-87. For simplicity and brevity, since the jurisdictions’ regulations/ordinances remain substantively identical, EPA will continue to refer to the City of Memphis Air Code throughout this rulemaking action to represent the regulations/ordinances of Shelby County and the included municipalities.

to approve the March 2, 2022, SIP revision with certain exceptions. Specifically, EPA proposed in the NPRM to incorporate by reference, with certain exceptions, revisions to the City of Memphis Air Code Section 9-12-24, locally effective on February 22, 2022, which itself adopts by reference Tennessee Air Pollution Control Regulations (TAPCR) Chapter 1200-3-20, titled “Limits on Emissions due to Malfunctions, Startups, and Shutdowns,” as effective on December 5, 2018, into City of Memphis Air Code Section 9-12-24 (formerly Section 16-87).<sup>3 4 5</sup> SCHD has excluded certain parts of the adoption by reference of TAPCR Chapter 1200-3-20 from its request for EPA approval of City of Memphis Air Code Section 9-12-24 into the SIP. Specifically, in the March 2, 2022, SIP revision, SCHD requests that Section 1200-3-20-.06(5) not be incorporated into the Shelby County portion of the Tennessee SIP. In addition, on June 30, 2023, EPA received a request submitted

<sup>3</sup> One of the intervening changes that EPA is approving as part of this rulemaking action is changing the relevant City of Memphis Air Code reference in the SIP from Section 16-87 to Section 9-12-24. The title of this section remains “Malfunctions, Startups and Shutdowns.”

<sup>4</sup> EPA is finalizing the incorporation by reference—with certain exceptions—into the Shelby County portion of the Tennessee SIP, the City of Memphis Air Code Section 9-12-24 (formerly Section 16-87), locally effective on February 22, 2022, which adopts by reference the December 5, 2018, State-effective version of TAPCR Chapter 1200-3-20, “Limits on Emissions Due to Malfunctions, Startups, and Shutdowns.” EPA is also incorporating by reference the following sections that contain substantively identical changes: Shelby County—Section 3-9 (locally effective on January 13, 2020); Town of Arlington—Section 20-101 (locally effective on November 2, 2020); City of Bartlett—Section 20-101 (locally effective on December 8, 2020); Town of Collierville—Section 96.02 (locally effective on November 23, 2020); City of Germantown—Section 9-21(24) (locally effective on July 12, 2021); City of Lakeland—Section 20-101 (locally effective on February 10, 2022); Town of Millington—Section 20-101 (locally effective on October 12, 2020). See the cover letter of the SIP revision dated March 1, 2022, with the subject line “Request to Incorporate Revisions into the Shelby County and Included Municipalities Ordinance into the SIP for Tennessee as Response to EPA’s SIP Call” in the docket for this rulemaking action for evidence of adoption into the air codes of Shelby County and the included municipalities.

<sup>5</sup> The State-effective dates for the rules within TAPCR Chapter 1200-3-20 that were in effect on December 5, 2018, are: 1200-3-20-.01, “Purpose”—September 26, 1994; 1200-3-20-.02, “Reasonable Measures Required”—November 11, 1997; 1200-3-20-.04, “Logs and Reports”—June 19, 2013; 1200-3-20-.05, “Copies of Log Required”—September 26, 1994; 1200-3-20-.06, “Report Required Upon The Issuance of a Notice of Violation”—November 16, 2016; 1200-3-20-.07, “Special Reports Required”—September 26, 1994; 1200-3-20-.08, “Rights Reserved”—September 26, 1994; and 1200-3-20-.09, “Additional Sources Covered”—September 26, 1994. 1200-3-20-.03 was withdrawn from Shelby County’s submission. There were no substantive changes to 1200-3-20-.05.

by TDEC, on behalf of SCHD, to withdraw the portion of its submission making changes to TAPCR Section 1200-3-20-.03, new TAPCR Section 1200-3-20-.06(1), and new TAPCR Section 1200-3-20-.06(4), as submitted in the March 2, 2022, SIP revision.<sup>6</sup> EPA's rationale for the approval is explained in the September 12, 2024, NPRM. See 89 FR 74165. Comments on the September 12, 2024, NPRM were due on or before October 3, 2024. EPA did not receive any comments on the September 12, 2024, NPRM.

## II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference.<sup>7</sup> In accordance with the requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference, with certain exceptions, of City of Memphis Air Code Section 9-12-24 (formerly Section 16-87), locally effective on February 22, 2022, which itself adopts by reference TAPCR Chapter 1200-3-20, as State effective on December 5, 2018, with the following exceptions: EPA is not incorporating TAPCR Section 1200-3-20-.03, 1200-3-20-.06(1), 1200-3-20-.06(4), and 1200-03-20-.06(5).<sup>8</sup> These revisions are intended, in part, to conform Shelby County's regulations with the State of Tennessee's SIP-approved regulations. EPA has made and will continue to make these materials generally available through <https://www.regulations.gov> and at the EPA Region 4 Office (please contact the person identified in the "for further information contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be

<sup>6</sup> The June 30, 2023, letter from TDEC is included in the docket for this action, as is SCHD's June 29, 2023, letter regarding withdrawal of certain provisions.

<sup>7</sup> EPA's approval of the changes to and incorporation by reference of City of Memphis Air Code Section 9-12-24 also includes the approval of substantively identical changes to regulations/ordinances submitted for Shelby County and the other included municipalities and the incorporation by reference of those impacted sections in these jurisdictions. See footnote 4, above.

<sup>8</sup> EPA is not incorporating by reference into the Shelby County portion of the Tennessee SIP the adoption by reference of TAPCR Section 1200-3-20-.03, 1200-03-20-.06(1), 1200-3-20-.06(4), and 1200-03-20-.06(5).

incorporated by reference in the next update to the SIP compilation.<sup>9</sup>

## III. Final Action

EPA is approving the portion of Tennessee's March 2, 2022, SIP revision that makes changes to the Shelby County portion of the Tennessee SIP under City of Memphis Air Code Section 9-12-24 (formerly Section 16-87), which adopts by reference portions of TAPCR Chapter 1200-3-20 as effective on December 5, 2018. Specifically, EPA is approving the changes to the adoption by reference of Section 1200-3-20-.01, "Purpose"; Section 1200-3-20-.02, "Reasonable Measures Required"; Section 1200-3-20-.04, "Logs and Reports"; Section 1200-3-20-.06, "Report Required Upon the Issuance of Notice of Violation," renumbered from 1200-3-20-.07, except for 1200-3-20-.06(1), 1200-3-20-.06(4), and 1200-3-20-.06(5); Section 1200-3-20-.07, "Special Reports Required," renumbered from 1200-3-20-.08; and Section 1200-3-20-.09, "Additional Source Covered," renumbered from 1200-3-20-10. EPA is also approving the addition of Section 1200-3-20-.08, "Rights Reserved." EPA is also approving the removal of Section 1200-3-20-.06, "Scheduled Maintenance."

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. See 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 Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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.*);

<sup>9</sup> 62 FR 27968 (May 22, 1997).

- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. EPA defines EJ as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

SCHD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air

quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 January 21, 2025. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 12, 2024.

**Jeananne Gettle,**  
*Acting Regional Administrator, Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart RR—Tennessee**

- 2. In § 52.2220(c), amend Table 2 under the heading “Division IV—Emission Standards” by:
  - a. Adding “Section 9–12–24 Limits on Emissions due to Malfunctions, Startups, and Shutdowns” to be in numerical order; and
  - b. Revising “Section 16–87 Limits on Emissions due to Malfunctions, Startups, and Shutdowns.”

The addition and revision read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

TABLE 2—EPA APPROVED MEMPHIS-SHELBY COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Division IV Source Emissions Standards</b>				
Section 9–12–24 .....	Limits on Emissions due to Malfunctions, Startups & Shutdowns.	2/22/22	11/20/2024, [Insert first page of <b>Federal Register</b> citation].	With the exception of TAPCR Section 1200–3–20–.03, .06(1), (4) and (5). With the same exceptions, EPA’s approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within Shelby County: Shelby County—Section 3–9 (locally effective on January 13, 2020); Town of Arlington—Section 20–101 (locally effective on November 2, 2020); City of Bartlett—Section 20–101 (locally effective on December 8, 2020); Town of Collierville—Section 96.02 (locally effective on November 23, 2020); City of Germantown—Section 9–21(24) (locally effective on July 12, 2021); City of Lakeland—Section 20–101 (locally effective on February 10, 2022); and Town of Millington—Section 20–101 (locally effective on October 12, 2020).
*	*	*	*	*
Section 16–87 .....	Limits on Emissions due to Malfunctions, Startups & Shutdowns.	8/14/89	11/20/2024, [Insert first page of <b>Federal Register</b> citation].	Only TAPCR Section 1200–3–20–.03 with a State effective date of March 21, 1979, and the first sentence of TAPCR Section 1200–3–20–.07(1) with a State effective date of December 14, 1981.

[FR Doc. 2024–26928 Filed 11–19–24; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA–R04–RCRA–2024–0451; FRL–12278–01–R4]

**Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions**

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

**ACTION:** Final action.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action on the authorization of changes to Tennessee’s hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. These changes were outlined in a December 8, 2023, application to the EPA. We have determined that these changes satisfy all requirements needed for final authorization.