

The following represents EPA's review of the State's submitted regulations for meeting the requirements of the amended CAA:

(1) The CAA repealed the construction ban provisions previously found in section 110(a)(2)(I) with certain exceptions. No construction bans are currently imposed in Tennessee, so this provision is not applicable.

(2) Section 173(a)(1)(A) of the CAA requires a demonstration for permit issuance that the new source growth does not interfere with reasonable further progress (RFP) for the area (e.g., greater than 1:1 emission offsets should insure no interference with RFP). In addition, calculations of emissions offsets must be based on the same emissions baseline used in the demonstration of RFP. In Section 1200-3-9-.01(5)(b)(2)(iv) the State has established provisions that adequately address the requirements of section 173(a)(1).

(3) Section 173(c)(1) of the CAA requires that offsets must generally be obtained by the same source or other sources in the same nonattainment area. However, offsets may be obtained from other nonattainment areas if the following conditions are met: the area in which the offsets are obtained has an equal or higher nonattainment classification; and emissions from the nonattainment area in which the offsets are obtained contribute to a national ambient air quality standard (NAAQS) violation in the area in which the source would construct. In Chapter 1200-3-9-.01(5)(b)(2)(v)(1), the State has established provisions that adequately meet these requirements of section 173(c)(1).

(4) Section 173(c)(1) of the CAA requires that any emissions offsets obtained in conjunction with the issuance of a permit to a new or modified source must be in effect and enforceable by the time the new or modified source commences operation and that any emission increases from new or modified major stationary sources must be offset by reductions in actual emissions. In Chapter 1200-3-9-.01(5)(b)(2)(v), the State has established provisions that adequately meet these requirements of section 173(c)(1).

(5) Section 173(c)(2) of the CAA prohibits emissions reductions otherwise required by the CAA from being credited for purposes of satisfying the part D offset requirements. In Chapter 1200-3-9-.01(5)(b)(2)(v)(VII), the State has established provisions that adequately meet the requirements of section 173(c)(2).

(6) Revised sections 172(c)(4), 173(a)(1)(B), and 173(b) of the CAA

limit or invalidate use of certain growth allowances in nonattainment areas. In Chapter 1200-3-9-.01(5)(b)(2)(iv)(1), the State has established provisions that adequately meet the requirements of sections 172(c)(4), 173(a)(1)(B), and 173(b).

(7) Revised section 173(a)(5) of the CAA requires that, as a prerequisite to issuing any part D permit, an analysis of alternative sites, sizes, production processes, and environmental control techniques for a proposed source must be completed, which demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. In Chapter 1200-3-9-.01(5)(b)(2)(vi), the State has established provisions that adequately meet the requirements of section 173(a)(5).

(8) Section 173(d) of the CAA requires States to submit control technology information from permits to EPA for the purposes of making such information available through the RACT/BACT/LAER clearinghouse. In Chapter 1200-3-9-.01(5)(b)(2)(iii)(V), the State has established provisions that adequately meet the requirements of section 173.

(9) In Chapter 1200-3-9-.01(5)(b)(xviii) the State has submitted a revised definition for the lowest achievable emission rate (LAER). In the previously approved SIP, LAER is defined for the prevention of significant deterioration (PSD) in subparagraph 1200-3-9-.01(4)(o)(5)(b)(3), and for new sources in subparagraph 1200-3-9-.01(5)(b)(3). The same definition is used in both places. LAER is defined as that rate of emissions which reflects the most stringent emission limitation which is achieved in practice by such class or category of sources. In no event shall a new or modified source emit any pollutant in excess of the applicable New Source Performance Standards (NSPS).

Revisions to Tennessee's PSD regulations, which have been submitted to EPA, but not yet acted upon, delete the definition of LAER from paragraph 1200-3-9-.01(4) and add it to the general definitions for the issuance of construction permits, which will be found in subparagraph 1200-3-9-.01(2)(e). This section defines LAER, for any major stationary source or major modifications, as the more stringent rate of emissions based on the following: (1) The most stringent emissions limitation which is contained in the applicable standards under this Division 1200-3, or in any SIP for such class or category of stationary source, unless the owner or operator of the proposed source

demonstrates that such limitations are not achievable; or (2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any air contaminant in excess of the amount allowable under applicable new source standards of performance.

The State previously submitted revisions to their volatile organic compound (VOC) regulations on June 22, 1993, which included a request for the deletion of rule 1200-3-18-.03 Standard for New Sources. This rule includes a definition of LAER which means for any source, that rate of emissions which reflects the most stringent emission limitation which is achieved in practice by such class or category of source. In no event shall a new or modified source emit any pollutant in excess of the applicable NSPS. This deletion was previously disapproved by EPA (see 59 FR 18310) because Tennessee did not have federally approved NSR regulations which would apply to some of the sources covered by that chapter. In 59 FR 18310 EPA recommended that Tennessee submit the deletion of this rule with the submittal of their revised NSR regulations.

The revised NSR rules define LAER as the more stringent rate of emissions of the most stringent emissions limitation contained in Division 1200-3 of the state rules or in any SIP for such class or category of source. In no event may LAER be in excess of the applicable NSPS. This revised definition closely parallels the statutory definition of LAER in section 171(3) of the CAA and eliminates the previous discrepancy between the state definition and the statutory, and EPA approves the revision as satisfying part D requirements.

In addition to all of the general nonattainment NSR provisions mentioned above, there are also nonattainment area-specific NSR provisions in subparts 2, 3, and 4 of part D of the CAA, some of which supersede general NSR provisions. The following provisions are additional NSR provisions that apply in Tennessee's nonattainment areas.

1. Ozone Nonattainment Areas

The State has adopted the appropriate major source threshold in Rule 1200-3-9-.01(5)(b)(1)(iv), 100 tons per year (tpy),