

I. General Information:

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Phone: 865-215-5900 Email: airquality@knoxcounty.org

Revision Type: X Amendment New Repeal

Knox County Air Quality Management Regulation (KCAQMR) Section(s) being Revised:

Section Number	Section Title
16.4	Exceptions to Prohibition – With Permit

II. Description of KCAQMR Revision(s):

The City of Knoxville fire prevention bureau provides additional rules for open burning, and on their website lists contacting Knox County Air Quality Management for a burn permit. The department has been in the position of trying to explain that our rules list a prohibition by city ordinance, but the city website indicates it is possible with a permit. KCAQM would like to remove the express prohibition within the City of Knoxville and allow our staff to enforce our rules across the county. This would allow the Fire Prevention Bureau of the City of Knoxville to apply and enforce any additional measures they see fit.

III. Redline/Strikeout of the Revised KCAQMR Section(s):

Amending 16.4.A.2 Exceptions to Prohibition – With Permit:

~~2. The open burning of solid waste, including brush wood , within the City of Knoxville limits is expressly prohibited by City Ordinance Section 13.8. Therefore open burning to clear land of brushwood grown on that land is prohibited within the City of Knoxville Limits.~~

2. Based upon City Ordinance Section 13-8, residents of the City of Knoxville may be subject to additional restrictions and limitations which are subject to the oversight of the Fire Prevention Bureau.

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Knox County Air Quality Management Regulation (KCAQMR) Section(s) being Revised:

Section Number	Section Title
25.70	Major Source Operating Permit/ Title V

II. Description of KCAQMR Revision(s):

The Environmental Protection Agency (EPA) removed the “emergency” affirmative defense provisions from the EPA’s title V operating permit program regulations. These provisions established an affirmative defense that sources could have asserted in enforcement cases brought for noncompliance with technology-based emission limitations in operating permits, provided that the exceedances occurred due to qualifying emergency circumstances. These provisions were removed as being inconsistent with the EPA’s interpretation of the enforcement structure of the Clean Air Act (CAA or the Act) according to prior court decisions from the US Court of Appeals for the D.C Circuit. In order to be consistent with the Federal regulation 40 CFR 70, KCAQMR need to be revised to remove section 25.70.F.7 that corresponds to the USEPA final action of removing 40 CFR 70.6(g).

III. Redline/Strikeout of the Revised KCAQMR Section(s):

Amending KCAQMR Section 25.70.F. by removing all of Section 25.70.F.7:

~~7. Emergency provision.~~ **Reserved**

~~a. Definition. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.~~

~~b. Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph 7.c of this section are met.~~

~~c. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

- ~~(1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;~~
- ~~(2) The permitted facility was at the time being properly operated;~~
- ~~(3) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~
- ~~(4) The permittee immediately notified the Department by phone or fax and submitted written notice of the emergency to the Department within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph 1.c(3)(b) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

~~d. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

e. ~~This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~

IV. Implementation Plan

Current Part 70 (Title V) permits contain what is now impermissible affirmative defense provisions. These will be removed from individual permits by the next periods permit renewal according to the chart below or sooner if the permit is opened for modification for any reason sooner than periodic renewal.

SOURCE #	Facility Name	Expiration
8	CEMEX Construction Materials Atlantic, LLC	11/1/27
533	Explore Industries USA, Inc.	11/30/26
568	CMC Steel US, LLC	10/31/26
838	Flowers Baking Company of Knoxville, LLC	4/1/2029
970	Republic Plastics, L.P.	7/25/26
1065	Republic Plastics, L.P.	4/13/25