of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final regulation that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205 of the Unfunded Mandates Act, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule 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 pertaining to the definitions in Pennsylvania Chapter 121 must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1997. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 24, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(127) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(127) Revisions to the Pennsylvania Regulations, Chapter 121.1—Definitions, submitted on February 4, 1994 by the Pennsylvania Department of Environmental Protection (formerly Pennsylvania Department of Environmental Resources) and effective on January 15, 1994.

(i) Incorporation by reference.

(A) Letter dated February 4, 1994 from the Pennsylvania Department of Environmental Protection transmitting the definitions in Chapter 121 relating to the Pennsylvania VOC and NOx RACT regulation (Chapter 129.91 through 129.95) and new source review regulation (Chapter 127).

(B) Title 25 Pennsylvania Code, Chapter 121.1—definitions, effective January 15, 1994.

[FR Doc. 97–21255 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–178–02–9724a; TN–179–01–9723a; FRL–5871–9]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Chattanooga/Hamilton County Portion Regarding Prevention of Significant Deterioration (PSD), Nitrogen Oxides, Lead Emissions, Volatile Organic Compounds (VOC), and PM_{10} Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Chattanooga/Hamilton County (Chattanooga) portion of the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), on December 11, 1995, and June 26, 1996. The EPA is approving these revisions to the Chattanooga regulations regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compounds (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}. At the time of the submittal, Chattanooga/Hamilton County submitted packages from the City of Chattanooga, Hamilton County, and the nine other municipalities in Hamilton County. The State has certified to EPA that the substantive codes of the County and the nine municipalities are essentially the same as the City of Chattanooga's. Therefore EPA's review has been limited to the City's code.

DATES: This final rule is effective October 14, 1997 unless adverse or critical comments are received by September 11, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Karen C. Borel at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Reference files TN–178–02–9724, and TN–179–01–9723. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, Karen C. Borel, 404/562–9029.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

Chattanooga/Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407–2405, 615/867–4321.

FOR FURTHER INFORMATION CONTACT: Karen C. Borel at 404/562–9029.

SUPPLEMENTARY INFORMATION: On December 11, 1995, and June 26, 1996, the State of Tennessee submitted formal revisions to the Chattanooga/Hamilton County portion of the SIP. EPA previously approved several portions of the December 11, 1995, submittal which were required for Chattanooga/Hamilton County's Federally enforceable local operating permit (FELOP) program submittal. This approval was published on February 18, 1997 (62 FR 7160). At that time, EPA also approved Chattanooga/Hamilton County's FELOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA).

EPA is approving the revisions described herein, with the exception of revisions to Section 4–13(b)(6) and Section 4–41, Rule 6.3(2). These revisions deal exclusively with fees which are collected by the local agency. The collection of fees is not part of the Federally approved SIP, therefore, EPA will take no action on these portions of the December 11, 1995, submittal (reference file TN 178–2). EPA is also approving revisions to Section 4–41, Rule 25.21(6) for the surface coating of miscellaneous metal parts and products which corrects a previous disapproval of this rule. The previous disapproval was published on May 8, 1990, in 55 FR 19068. This rule was disapproved at that time because the 100 tpy limit was less stringent than the State's regulations and was not adequate to maintain the NAAQS in Chattanooga/Hamilton County. This level has now been revised to 25 tpy and is approvable.

EPA is therefore approving the following revisions, as summarized in the paragraphs below. These revisions apply only to the Chattanooga/Hamilton County's portion of the Tennessee SIP, not the State's SIP. In any areas where the Chattanooga/Hamilton County SIP is less stringent or has been disapproved, the State SIP applies. All codification references are to the City of Chattanooga's Code.

The following revisions are those included in the December 11, 1995, submittal (reference file TN 178–02). These are the revisions on which action was not taken in the aforementioned February 18, 1997, notice.

1. Chapter 4, Section 4–13, Certificate of Alternate Control

This section has been revised for sources who apply for and receive a ''certificate of alternate control'' in lieu of satisfying otherwise applicable standards of the air pollution control chapter. VOCs have been added to the list of pollutants that a source with this certificate may not emit in excess of the limits on their certificate. The section has also been revised to state that the rated capacity of the source does not change for incinerators. The phrase ''the plant'' has been changed to ''source'' throughout this section. Some additional specific revisions to subparagraphs of the section are noted below.

Section 4–13(b)(1).—''Specific sources'' have been changed to ''emissions units.'' This section now requires that the calculations to determine equivalence to standards limiting the pounds of VOCs per gallon of material shall be on the basis of equivalent solids applied. Additionally, credit for reductions of fugitive emissions is no longer allowed.

Section 4–13(b)(3)—Formerly, modeling techniques for the source could be approved at the discretion of the director. This has been deleted. These techniques must now be consistent with 40 CFR part 51, Appendix W ''Guideline on Air Quality Models.''

Section 4–13(c)—The requirement to submit alternate emission limitations and certificate conditions to the EPA for approval has been added to this section, as part of the process of submitting this for incorporation into the SIP.

Section 4–13(d)—This section has been revised to apply good engineering practice stack heights on all stack changes associated with the alternate control limitations for particulate matter, sulfur dioxide, carbon monoxide, and nitrogen dioxide.

Section 4–13(e)(2)—This section has been revised to require that all pollution control equipment be kept in good operating condition at all times. The exceptions for periods of start-up, shutdown, and malfunctions, have been deleted.

Section 4–13(j)—The certificate, in the instance of amended regulations covering the source on the certificate, will now become void ninety days after the source's receipt of notice of the revised regulations. This was previously 180 days.

2. Section 4–41, Rule 2, Regulations of Nitrogen Oxides

Rule 2.4—This rule has been revised to eliminate the phrase ''air contaminant'' when describing ''source'' and to note that ''portland cement plants'' and ''emergency generators'' are not regulated by this rule, but rather by rules 2.6 and 2.7, respectively.

Rule 2.6—This rule has been added to address the nitrogen oxides emissions limit for portland cement plants. It reads as follows:

> ''No portland cement plant shall cause, suffer, allow or permit the emission of nitrogen oxides in excess of one thousand five hundred (1500) ppm produced when averaged over any three consecutive hour period.''

Rule 2.7—This rule has been added to address the nitrogen oxides emission limit for emergency generators. An emergency generator that emits more than one thousand five hundred (1500) parts per million cannot be operated consecutively for longer than five (5) days, or for more than a total of twenty (20) days in any calendar year. If a source does this they must demonstrate to the director with clear and convincing evidence that reasonable unforeseeable events beyond the control of the source require use of the emergency generator for an additional period of time. The source must also maintain written records during these times.

3. Section 4–41, Rule 16.5, Emission Standards for Source Categories of Area Sources

This rule has been added to address the emission standards for source categories of area sources. It defines an ''area source'' for the purposes of Rule 16.5 as any stationary source that is not a ''major source.'' It also states that the emission standards in Rule 16 do not replace the requirements of any more stringent emission limitations. It identifies the requirements for hazardous air pollutants as those found

in 40 CFR part 63. It also states that this rule must be consistent with any enforceable agreement with the Administrator, unless the source has been released from that agreement.

4. Section 4–41, Rule 18, Prevention of Significant Air Quality Deterioration (PSD)

Citations throughout Rule 18 have been revised in accordance with the changes in codification resultant from the revisions to the ''PSD rule.''

Rule 18.1, General provisions—This rule has been revised to limit the length of an extension of an installation permit to an additional eighteen (18) months after the completion date specified on the installation permit. It has also revised the title of the permit from ''construction permit'' to ''installation permit.'' Also, for phased construction projects, the determination of best available control technology shall be reviewed and modified no later than 18 months prior to the commencement of construction of each independent phase of the project.

Rule 18.2, Definitions—The definitions for the following terms have been added or revised and are equivalent to the definitions in 40 CFR 51.100, 51.165 and 51.166: *Actual emissions; Allowable emissions; Baseline area; Baseline concentration; Major source baseline date; Minor source baseline date; Begin actual construction; Best available control technology (BACT); Building, structure, facility or installation; Emissions unit; Major stationary source; Significant; Net emissions increase; Potential to emit; Secondary emissions; Volatile organic compounds; Electric utility steam generating unit; Pollution control project; Representative actual annual emissions; Clean coal technology; Temporary clean coal technology; Repowering; Reactivation of a very clean coal-fired electric utility steam generating unit; and Control strategy.*

Rule 18.2(q)—The definition of ''legally enforceable'' has been revised to meet Federal requirements and reads as follows: *''Legally enforceable means all limitations and conditions which are enforceable under local, state, or federal law, including those under this chapter or an implementation plan, and any permit or certificate of operation requirements established pursuant to this chapter.''*

Rule 18.2(x)—The definition of ''pollutant'' has been added as follows: *''Pollutant means any air contaminant as defined in section 4–2 or combination of such air contaminants, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) air contaminant which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any such air contaminants, to the extent the U.S. Environmental Protection Agency has identified such precursor or precursors for the particular purpose for which the term ''pollutant'' is used.''*

Rule 18.2(dd)—The definition of ''welfare'' has been added as follows: *''Welfare means any effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, visibility, weather and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether those effects are caused directly or by transformation, conversion, or combination with other air pollutants.''*

Rule 18.3(d)—This rule has been revised to change the exemption to preconstruction air quality analysis for a proposed major stationary source or major modification whose emissions increases causes air quality impacts of less than 10 ug/m^3 for PM_{10} rather than total suspended particulates. This rule has also been revised to add the amount of VOCs impacting ozone formation that may be exempted. Previously this stated that ''no de minimis level established.'' This has been revised to add to that definition as follows: ''but any net increase of 100 tons/year or more of volatile organic compounds subject to the PSD rule may not be exempted from ambient impact analysis as required by Rule 18.4(I).'' (Rule 18.4(I) contains the requirements for the air quality analysis.)

Rule 18.3(f)—This requirement has been added in accordance with 40 CFR 51.166(f)(iii) to clarify source impact analysis as follows: *''Source impact analysis otherwise required by Rule 18.4 does not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an installation and temporary operating permit application before the provisions embodying the maximum allowable increase took effect as part of this chapter and the director subsequently determined that the application was submitted before that date was complete.''*

Rule 18.4(a)—This paragraph has been modified to reference the PSD rule rather than ''appropriate enforcement actions.''

Rule 18.4(b)—This paragraph has been added to state that *''A major stationary source or major modification shall meet the most stringent of each applicable emissions limitation in the chapter and the applicable emissions standard under section 4–41, Rules 15 and 16.''* (Rules 15 and 16 are their incorporation by reference of the requirements of 40 CFR parts 60 and 61.)

Rule 18.4(e)—This paragraph has been added to address BACT review, in accordance with 40 CFR 51.166(j)(4).

Rule 18.4(g)—This paragraph has been modified to add subparagraph (2) to address source impact analysis for stationary sources or modifications for increases in PM_{10}, in accordance with 40 CFR parts 51.166 (d) and (k).

Rule 18.4(h)—This paragraph has been modified to address additional requirements for submitting applications for sources impacting Federal Class I areas. A copy of the permit is required to be sent to the Federal Land Manager. The copy of the permit must be sent within 30 days of the application, and at least 60 days before any public hearings. The notification must include an analysis of the proposed source's impact on visibility in the Federal Class I area. These requirements are consistent with those in 40 CFR 51.166(p).

Rule 18.6(b)—Class I areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 5 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 4 ug/m^3. The ''24-hour maximum'' of 10 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 8 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 2.5 ug/m^3.

Class II areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 19 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 17 ug/m^3. The ''24-hour maximum'' of 37 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 30 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 25 ug/m^3.

Class III areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 37 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 34 ug/m^3. The ''24-hour maximum'' of 10 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 60 ug/m^3 for PM_{10}. The ''Annual arithmetic

mean'' for Nitrogen Dioxide has also been added. This is set at 50 ug/m^3.

These changes were made in accordance with the requirements of 40 CFR 51.166(c).

Rule 18.6(c)—The exclusions from increment consumption have been revised to add an exclusion for ''*the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.*''

Rule 18.6(d)—The Class I variances have been revised. The maximum allowable increase has been changed by deleting those previously allowed for TSP and adding them for PM_{10}. The ''annual geometric mean'' for TSP, formerly 19 ug/m^3 is now an ''annual arithmetic mean'' for PM_{10} of 17 ug/m^3. The ''24-hour maximum'' of 37 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 30 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 25 ug/m^3. This is consistent with the requirements of 40 CFR 51.166(p)(4).

Rule 18.6 (e) and (f)—A sulfur dioxide variance, by the Governor, has been added to this rule, along with emission limitations for Presidential or gubernatorial variances. These are consistent with 40 CFR 51.166(p) (5) and (6).

5. Section 4–41, Rule 20.4(2)d

This rule has been revised to delete the phrase ''that are removed during surgery and autopsy'' when referring to human pathological waste.

6. Section 4–41, Rule 21

''Table 1'' has been renamed as ''Table I.'' The Primary standards for TSP have been deleted. The secondary standard of 60 ug/m^3 has also been deleted, leaving the secondary standard of 150 ug/m^3 in place. The primary standards for gaseous fluorides have been deleted, leaving in place only the secondary standards.

7. Section 4–41, Rule 25.2(33)

The definition of VOCs has been revised to add the phrase ''which participates in atmospheric photochemical reactions.'' Parachlorobenzotrifluoride (PCBTF) and cyclic, branched, or linear completely methylated siloxanes have been added to the list of exempt compounds.

8. Section 4–41, Rule 27, Particulate Matter Controls for New Sources and New Modifications

This rule has been added to impose the requirement for the utilization of BACT in appropriate cases for particulate matter. A new source which emits fifteen (15) tons per year (tpy) or more of PM_{10}, or more than twenty-five (25) tons per year particulate matter shall utilize ''particulate matter best available control technology'' (particulate BACT). This rule is consistent with the requirements and definitions in 40 CFR 51.166(b).

9. Section 4–41, Rule 9.4

This rule has been deleted, thereby deleting the former requirement that vehicle testing be part of the semiannual safety lane inspection. This rule was not required in Chattanooga/Hamilton County and has never been implemented in this area.

10. Section 4–41, Rule 26.8(1)(b)

This rule for grain elevators has been revised to correct the spelling of the word ''sieve.''

The following revisions are those included in the June 26, 1996, submittal (reference file TN 179–01).

11. Section 4–2

The definitions for the following terms have been added and are equivalent to the definitions in 40 CFR 51.100: PM_{10}, PM_{10} emissions, and Total Suspended Particulate. The definitions for ''pathological waste'' and ''pathological waste incinerator'' have been deleted. Definitions for ''malfunction'' and ''opacity'' have been added which are equivalent to the definitions in the State's SIP. These definitions are as follows:

Malfunction—Any sudden and unavoidable failure of air pollution control equipment, fuel-burning equipment, refuse-burning equipment or process equipment, or for a process to operate in an abnormal or unusual manner. Failures that are caused by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Opacity—The degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

12. Section 4–41, Rule 7.4

This rule has been deleted, thereby deleting the particulate emission limitations for pathological waste incinerators. These have been moved to Rule 20 of the local regulations.

13. Section 4–41, Rule 19. Regulation of Lead Emissions

A new lead rule was added to the SIP. This rule includes definitions for the following terms: Significant source of lead, Source, and Permit unit. These definitions are consistent with the requirements of 40 CFR 51.100 and 51.117. The general limitations for lead emissions have been established. New sources with actual emissions greater than 5.0 tons per year are required to utilize BACT. Any modifications to a source which result in an increase of emissions in excess of 0.6 tons per year must also use BACT. Source sampling and analysis, along with ambient monitoring, are also required, in accordance with 40 CFR 51.100 and 51.117.

14. Section 4–41, Rule 22. Good Engineering Practices Stack Heights

This rule has been added to fully address the requirements for stack heights. It is consistent with the requirements of 40 CFR 51.100 and 51.118.

a. Definitions—Definitions which are consistent with 40 CFR 51.100 have been added for the following terms: Dispersion technique, Emission limitation, Good engineering practice, Excessive concentration, stack, and A stack in existence.

b. Stack height requirements and specific emissions limitations have been included in this rule in accordance with the requirements of 40 CFR 51.118.

15. Section 4–41, Rule 25.2

The definition for ''prime coat'' has been changed from ''* * * in a multiple-coat operation'' to ''* * * to a multiple-coat operation.''

16. Section 4–41, Rule 25.21(6), Surface Coating of Miscellaneous Metal Parts and Products

This rule has been revised to expand its application to facilities with potential VOC emissions of twenty-five (25) tons per year, rather than the former level of 100 tons per year. This approval corrects the previous disapproval of this rule which was published on May 8, 1990, in 55 FR 19068. It was disapproved at that time because the 100 tpy limit was less stringent that the State's regulations and was not adequate to maintain the NAAQS in Chattanooga/Hamilton County.

17. Section 4–41, Rule 25.27(3), Manufacture of Synthesized Pharmaceutical Products

This rule has been revised to expand application to facilities with potential VOC emissions of twenty-five (25) tons per year, rather than the former level of 100 tons per year.

Final Action

The EPA is approving the aforementioned revisions contained in the State's December 11, 1995, and June 26, 1996, submittals. EPA is also approving these same revisions in the Hamilton County Code and the city/town codes of the remaining municipalities in Hamilton County, Soddy-Daisy, Ridgeside, Signal Mountain, Walden, Lookout Mountain, East Ridge, Red Bank, Collegedale, and Lakesite. Although EPA has not reviewed the substance of the regulations for Hamilton County or the other nine municipalities, the substantive codes of Hamilton County and the nine municipalities rules have been certified by the State as essentially the same as the City of Chattanooga's regulations. The EPA's approval of these additional ordinances for the County and the remaining nine municipalities does not imply any position with respect to the approvability of the substantive rules.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 14, 1997 unless, by September 11, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 14, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 October 14, 1997. 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, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(154) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(154) Revisions to Chattanooga/Hamilton County portion of the Tennessee state implementation plan submitted to EPA by the State of Tennessee on December 11, 1995, and June 26, 1996, regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compound (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}.

(i) Incorporation by reference.

(A) Chapter 4, Section 4–13 except (b)(6), and Section 4–41, Rules 2.4, 2.6, 2.7; 16.5; 18; 20.4(2)d, 21, 25.2(33), 27; 3.5; 8, Table 1; 9.4, 13.1, and 26.8 of the ''Chattanooga Air Pollution Control Ordinance,'' adopted on August 15, 1995.

(B) Section 13, except (b)(6); Section 41, Rules 2.4, 2.6, 2.7; 16.5; 18; 20.4(2)d; 21; 24.2(33); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8(f)(4) of the regulation known as the ''Hamilton County Air Pollution Control Regulation,'' adopted by Hamilton County on September 6, 1995. The identical regulations were also adopted by the following municipalities as part of their air pollution control ordinances: Signal Mountain, adopted on December 11, 1995; Walden, adopted on December 12, 1995; Lookout Mountain, adopted on November 14, 1995; and Ridgeside, adopted on April 16, 1996.

(C) Chapter 7 for Section 8–713, except (b)(6); Section 8–741, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); to Chapter 3 for Section 8–541, Rule 26; and to Chapter 7, Section 8–741, for Rules 27; 3.5, 8, Table 1, and 13.1; Section 8–708(f)(4) of the ''East Ridge City Code,'' adopted on September 28, 1995.

(D) Chapter 3: Section 8–313, except (b)(6); Section 8–341, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8–308(f)(4) of the ''Red Bank Municipal Code,'' adopted on November 7, 1995.

(E) Chapter 1: Section 8–113, except (b)(6); Section 8–141, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1, and 13.1; and Section 8–108(f)(4) of the ''Soddy-Daisy Municipal Code,'' adopted on October 5, 1995.

(F) Chapter 3: Section 8–513, except (b)(6); Section 8–541, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8–108(f)(4) of the ''Collegedale Municipal Code,'' adopted on October 2, 1995.

(G) Chapter 3, Section 41, Rules 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8(f)(4) of the ''Lakesite Municipal Code'' adopted November 16, 1995.

(H) Chapter 4: Section 4–2; Section 4–41, Rules 19; 21, Table 1; 22; 25.2; 25.21(6); and 25.27(3) of the ''Chattanooga Air Pollution Control Ordinance,'' adopted on May 30, 1989.

(I) Section 9, Rules 19; 21, Table 1; 22; 25.2; 25.21(6); and 25.27(3); and Section 16 of the regulation known as the ''Hamilton County Air Pollution Control Regulation,'' adopted on June 7, 1989.

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[FR Doc. 97–21270 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–3a; FRL–5874–4]

Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delay of the effective date.

SUMMARY: On May 14, 1997 (62 FR 26396), EPA approved a revision submitted on July 9, 1996, and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbell Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton County. The revision was based on a request from the State of Ohio to revise the federally approved maintenance plan for those areas to provide the State and the affected areas with greater flexibility in choosing the appropiate ozone contingency measures for each area in the event such a measure is needed. On June 13, 1997 (62 FR 32204), the EPA delayed the effective date of the May 14, 1997, direct final rule for 60 days, until September 12, 1997, to allow for a 60-day extension of the public comment period. The EPA is postponing the effective date of this rule for an additional 120 days to allow for an additional 120-day extension of the public comment period. In the proposed rules section of this **Federal Register**, EPA announces an additional 120-day extension of the public comment period on these maintenance plans.

DATES: The direct final rule published at 62 FR 26396 becomes effective January 9, 1998 unless substantive written adverse comments not previously addressed by the State or EPA are received by December 10, 1997. If the effective date is further delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), at the address below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Section, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6084.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: August 5, 1997.

Jo Lynn Traub,

Acting Regional Administrator.

Therefore the effective date of the amendment to 40 CFR part 52 which added § 52.1885(a)(5), published at 62 FR 26396, May 14, 1997, and delayed at 62 FR 32204, June 13, 1997, is further delayed until January 9, 1998.

[FR Doc. 97–21382 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 148

[FRL–5873–8]

Final Decision To Grant Chemical Waste Management, Inc. a Modification of an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 Regarding Injection of Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).