

appeal to the Principal Officer's cognizant Assistant Administrator. Recipients may appeal by submitting a written request to reconsider the Principal Officer's waiver determination to the cognizant Assistant Administrator.

(k) *Non-retroactivity.* Marking requirements apply to any obligation of USAID funds for new awards as of January 2, 2006. Marking requirements also will apply to new obligations under existing awards, such as incremental funding actions, as of January 2, 2006, when the total estimated cost of the existing award has been increased by USAID or the scope of work is changed to accommodate any costs associated with marking. In the event a waiver is rescinded, the marking requirements shall apply from the date forward that the waiver is rescinded. In the event of the rescinding of a waiver after the date of completion as defined in 22 CFR 226.2 but before closeout as defined in 22 CFR 226.2., the USAID mission or operating unit with initial responsibility to administer the marking requirements shall make a cost benefit analysis as to requiring USAID marking requirements after the date of completion of the affected programs, projects, activities, public communications or commodities.

(l) The USAID Identity, USAID Partner Co-Branding Guide, and other guidance will be provided at no cost or fee to recipients of USAID grants, cooperative agreements or other assistance awards or subawards. Additional costs associated with marking requirements will be met by USAID if reasonable, allowable, and allocable under the cost principles of OMB Cost Circular A-122. The standard cost reimbursement provisions of the grant, cooperative agreement, other assistance award or subaward should be followed when applying for reimbursement of additional marking costs.

(m) This section shall become effective on January 2, 2006.

Dated: August 17, 2005.

**Frederick W. Schieck,**  
*Deputy USAID Administrator.*

[FR Doc. 05-16698 Filed 8-23-05; 1:48 pm]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TN-200524-FRL-7952-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Chattanooga, TN; Revised Format for Materials Being Incorporated by Reference

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

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is revising the format of part 52 of Title 40 of the Code of Federal Regulations (40 CFR part 52) for materials submitted by Chattanooga, Tennessee that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the local agency and approved by EPA.

This format revision will affect the "Identification of Plan" sections of 40 CFR part 52, by adding a table for the Chattanooga portion of the Tennessee SIP. This revision will also affect the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center, and the Regional Office.

**DATES:** This action is effective August 26, 2005.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacy DiFrank at the above Region 4 address or at (404) 562-9042.

**SUPPLEMENTARY INFORMATION:** Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as

air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 "Approval and Promulgation of Implementation Plans." The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is "incorporated by reference." This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968), EPA revised the procedures for incorporating by reference (IBR), into the Code of Federal Regulations, materials submitted by states in their EPA-approved SIP revisions. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. Pursuant to these revised procedures, EPA is revising the format for identification of the Chattanooga portion of the Tennessee SIP, appearing in 40 CFR part 52. EPA has previously revised the format for the identification of the Tennessee SIP and the Memphis-Shelby County and Knox County portions of the SIP.

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation, and APA section 553(d)(3) which allows an agency to make an action effective immediately

(thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment for this administrative action is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the Chattanooga portion of the Tennessee SIP in Tennessee's "Identification of Plan" portion of 40 CFR part 52.

## Statutory and Executive Order Reviews

### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This administrative action also does 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), nor will it 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 administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This administrative action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these Statutes and Executive Orders for the underlying rules are discussed in previous actions taken on Chattanooga, Tennessee's rules.

### B. Submission to Congress and the Comptroller General

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). These announced actions were effective when EPA approved them through previous rulemaking actions. EPA will submit a report containing this action 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 this action in the **Federal Register**. This revision to Chattanooga's portion of the Tennessee SIP in the "Identification of Plan" section of 40 CFR part 52 is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. This action is simply an announcement of prior rulemakings that

have previously undergone notice-and-comment rulemaking. Prior EPA rulemaking actions for each individual component of the Chattanooga portion of the Tennessee SIP previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action.

## 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: August 4, 2005.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart RR—Chattanooga, Tennessee

■ 2. Section 52.2220 is amended as follows:

- a. By revising paragraph (b); and
- b. adding table 4 in paragraph (c) for Chattanooga, "EPA Approved Chattanooga Regulations".

### § 52.2220 Identification of plan.

\* \* \* \* \*

(b) Incorporation by reference.

(1) Material listed in paragraph (c) of this section with an EPA approval date prior to December 1, 1998, for Tennessee (Table 1 of the Tennessee State Implementation Plan), January 1, 2003 for Memphis Shelby County (Table 2 of the Memphis Shelby County portion of the Tennessee State Implementation Plan), March 1, 2005, for Knox County (Table 3 of the Knox County portion of the Tennessee State Implementation Plan), and April 1, 2005, for Chattanooga (Table 4 of the Chattanooga portion of the Tennessee State Implementation Plan) and paragraph (d) of this section with an EPA approval date prior to December 1, 1998 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraph

(c) of this section with EPA approval dates after December 1, 1998, for Tennessee (Table 1 of the Tennessee State Implementation Plan), January 1, 2003, for Memphis Shelby County (Table 2 of the Memphis Shelby County portion of the Tennessee State Implementation Plan), March 1, 2005, for Knox County (Table 3 of the Knox County portion of the Tennessee State Implementation Plan), and April 1, 2005, for Chattanooga (Table 4 of the Chattanooga portion of the Tennessee State Implementation Plan) and paragraph (d) of this section with an

EPA approval date of after December 1, 1998 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at

61 Forsyth Street, SW., Atlanta, GA 30303; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC. 20460 and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) \* \* \*

TABLE 4.—EPA APPROVED CHATTANOOGA REGULATIONS

State section	Title/subject	Adoption date	EPA approval date	Explanation
<b>Article I. In General</b>				
Section 4-1 .....	Declaration of Policy and Purposes: Title .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-2 .....	Definitions .....	08/16/95	02/18/97, 62 FR 7163.	
Section 4-3 .....	Regulations cumulative; compliance with one provision no defense to noncompliance with another; use of alternative methods.	08/16/95	02/18/97, 62 FR 7163.	
Section 4-4 .....	Penalties for violation of chapter, permit or order .....	08/16/95	02/18/97, 62 FR 7163.	
Section 4-5 .....	Limitations of chapter .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-6 .....	Air pollution control board; bureau of air pollution control; persons required to comply with chapter.	08/16/95	02/18/97, 62 FR 7163.	
Section 4-7 .....	Powers and duties of the board; delegation .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-8 .....	Installation permit, temporary operating permit, certification of operation and solid fuel permit.	08/16/95	02/18/97, 62 FR 7163.	
Section 4-9 .....	Technical reports; charges .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-10 .....	Records .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-11 .....	General Requirements .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-12 .....	Limits on emissions due to equipment malfunction, start-up or shutdown.	08/16/95	02/18/97, 62 FR 7163.	
Section 4-13 .....	Certificate of alternate control .....	12/11/95	08/12/97, 62 FR 43109.	
Section 4-14 .....	Court determination of invalidity of having two sets of limitations for process or fuel burning equipment; effect.	07/20/89	05/08/90, 55 FR 19066.	
Section 4-15 .....	Right to file abatement suits .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-16 .....	Right of entry of city employees; search warrants .....	08/16/95	02/18/97, 62 FR 7163.	
Section 4-17 .....	Enforcement of chapter; procedure for adjudicatory hearings.	08/16/95	02/18/97, 62 FR 7163.	
Section 4-18 .....	Hearings and judicial review .....	08/16/95	02/18/97, 62 FR 7163.	
Section 4-19 .....	Confidentiality of certain records .....	08/16/95	02/18/97, 62 FR 7163.	
Section 4-20 .....	Emergencies .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-21 .....	Variances .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-22 .....	Reserved.			
<b>Article II. Section 4-41 Rules, Regulations, Criteria, Standards</b>				
Section 4-41 Rule 1 .....	Rules adopted .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 2 .....	Regulation of Nitrogen Oxides .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4-41 Rule 3 .....	Visible Emission Regulations .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4-41 Rule 4 .....	Regulation of the Importation, Sales, Transportation, Use or Consumption of Certain Fuels.	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 5 .....	Prohibition of Hand-Fired Fuel Burning Equipment .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 6 .....	Prohibition of Open Burning .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 7 .....	Incinerator Regulation .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 8 .....	Fuel Burning Equipment Regulations .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4-41 Rule 9 .....	Regulation of Visible Emissions from Internal Combustion Engines.	08/15/95	08/12/97, 62 FR 43109.	
Section 4-41 Rule 10 .....	Process Emission Regulations .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 11 .....	Regulation of Transporting and Material Handling in Open Air.	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 12 .....	Regulation of Odors in the Ambient Air .....	07/20/89	05/08/90, 55 FR 19066.	
Section 4-41 Rule 13 .....	Regulation of Sulfur Oxides .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4-41 Rule 14 .....	Nuisances .....	07/20/89	05/08/90, 55 FR 19066.	

TABLE 4.—EPA APPROVED CHATTANOOGA REGULATIONS—Continued

State section	Title/subject	Adoption date	EPA approval date	Explanation
Section 4–41 Rule 16 .....	Emission Standards for Source Categories of Area Sources.	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 17 .....	General Provisions and Applicability for Process Gaseous Emissions Standards.	07/20/89	05/08/90, 55 FR 19066.	
Section 4–41 Rule 18 .....	Prevention of Significant Air Quality Deterioration .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 20 .....	Proposed Infectious Waste Rule .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 21 .....	Ambient Air Quality Standards .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 22 .....	(Reserved).			
Section 4–41 Rule 23 .....	General Provisions and Applicability for Process Gaseous Emissions Standards.	07/20/89	05/08/90, 55 FR 19066.	
Section 4–41 Rule 24 .....	(Reserved).			
Section 4–41 Rule 25 .....	General Provisions and Applicability for Volatile Organic Compounds.	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 26 .....	Reasonably Available Control Technology (RACT) .....	08/15/95	08/12/97, 62 FR 43109.	
Section 4–41 Rule 27 .....	Particulate Matter Controls for New Sources and New Modifications after August 12, 1997.	08/15/95	08/12/97, 62 FR 43109.	

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[FR Doc. 05–16932 Filed 8–25–05; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[R04–OAR–2005–SC–0001, R04–OAR–2005–GA–0001–200516; FRL–7957–1]****Approval and Promulgation of Air Quality Implementation Plans; South Carolina and Georgia; Attainment Demonstration for the Appalachian, Catawba, Pee Dee, Waccamaw, Santee Lynches, Berkeley-Charleston-Dorchester, Low Country, Lower Savannah, Central Midlands, and Upper Savannah Early Action Compact Areas****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the South Carolina and Georgia State Implementation Plans (SIPs), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) and the Georgia Environmental Protection Division (EPD), respectively, for the Early Action Compact (EAC) areas in South Carolina and Georgia. The proposed SIP revisions were submitted on December 29, 2004, by South Carolina and December 31, 2004, by Georgia. There are ten EAC areas in South Carolina and Georgia covered by this final action: the Appalachian, Catawba, Pee Dee, Waccamaw, Santee Lynches, Berkeley-Charleston-Dorchester, Low Country, Lower Savannah, Central Midlands, and Upper Savannah EAC Areas. Only the Lower

Savannah EAC Area has counties in both South Carolina and Georgia. For the purposes of this document, however, all of the above listed EAC areas will be collectively referred to as the “South Carolina and Georgia EAC Areas.” The SIP revisions meet the requirements for the South Carolina and Georgia EAC Areas to attain and maintain the 8-hour ozone national ambient air quality standard (the 8-hour ozone standard) as described in the EAC Protocol and related regulations. EPA is also now approving the photochemical modeling used by South Carolina and Georgia to support the attainment and maintenance demonstrations of the 8-hour ozone standard in the South Carolina and Georgia EAC Areas. The revisions being approved today further incorporate regulatory control measures into the South Carolina SIP, including two Statewide regulations pertaining to control of nitrogen oxide (NO<sub>x</sub>) emissions and open burning. In addition, this final action also corrects inadvertent errors in the May 26, 2005, proposal document relating to these SIP revisions (70 FR 30396).

In today’s final action, EPA is not finalizing its proposed rulemaking to defer the effective date of the nonattainment designations for EAC areas. In a separate action, published on June 8, 2005, EPA proposed to defer the effective date of the nonattainment deferred designation for EAC areas until December 31, 2006 (69 FR 23858). EPA final action on the deferral is expected to be published before September 30, 2005.

**DATES:** This rule will be effective September 26, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. R04–

OAR–2005–SC–0001 and R04–OAR–2005–GA–0001. The EAC Protocol can be found in RME ID No. R04–OAR–2005–SC–0001 or R04–OAR–2005–GA–0001. The protocol can also be found at <http://www.epa.gov/air/eac/>. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Although listed in the index, 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 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:** Nacosta C. Ward, 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) 562–9140. Ms. Ward can also be reached via