SIP approvals under Section 110 and Subchapter I, Part D, of the CAA 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, I certify 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

V. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA 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 the private sector, of $100 million or more. Under Section 205, the USEPA 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 the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today 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 programs that are not Federal mandates. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Lead, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended to read 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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(105) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(105) On October 25, 1994, the Indiana Department of Environmental Management submitted a requested revision to the Indiana State Implementation Plan in the form of Source Specific Operating Agreement (SSOA) regulations. The SSOA regulations are intended to limit the potential to emit for a source to below the threshold level of Title V of the Clean Air Act. This revision took the form of an amendment to title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2–9–1, 2–9–2(a), 2–9–2(b), and 2–9–2(e) Source Specific Operating Agreement Program.

(i) Incorporation by reference. 326 Indiana Administrative Code 2–9. Sections 1, 2(a), 2(b), and 2(e). Adopted by the Indiana Air Pollution Control Board March 10, 1994. Signed by the Secretary of State May 25, 1994. Effective June 24, 1994. Published at Indiana Register, Volume 17, Number 10, July 1, 1994.

[FR Doc. 96–7907 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[KY20–1–9612a; FRL–5447–8]

Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to the Kentucky State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Kentucky State Implementation Plan (SIP) submitted on June 15, 1983, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet). The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to sulfur dioxide (SO_2), and to allow a relaxation of the SO_2 emission limit in McCracken County.

DATES: This action is effective June 3, 1996, unless notice is received by May 2, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the 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.

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 Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4216.

SUPPLEMENTARY INFORMATION: On June 15, 1983, the Commonwealth of Kentucky through the Cabinet submitted revisions to the SO_2 SIP. The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to SO_2, and to allow a relaxation of the SO_2 emission limit in McCracken County. The revisions are described below:

(1) 401 KAR 50:025. Classification of Counties

On July 2, 1982, McCracken County was redesignated by the EPA from non-attainment to attainment for SO_2. The

Kentucky Division of Air Pollution has determined that the relaxed emission limitations contained in these amendments will not affect the SO_2 air quality of McCracken County sufficiently to cause a threat to its environment or to the health and welfare of its citizens. Therefore, the revision changes McCracken County's classification, with respect to SO_2, from Class I to Class IA.

(2) 401 KAR 61:015. Existing Indirect Heat Exchangers

Paragraph 5 is added to Section 5. Standard for Sulfur Dioxide. The paragraph reads as follows: In counties classified as IA with respect to sulfur dioxide, at sources having a total rated heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), the department shall allow one (1) affected facility, as specified on the operating permit, to emit sulfur dioxide at a rate not to exceed a twenty-four (24) hour average of 8.0 pounds per million BTU, during those periods of time when the affected facility is being operated for the purpose of generating high sulfur dioxide content flue gases for use in any experimental sulfur dioxide removal system.

(3) Appendix B of 401 KAR 61:015

A new equation is added for the calculation of SO_2 emission limits for counties classified as Class IA.

The purpose of these revisions is to allow the TVA Shawnee Power Plant to continue its scrubber research program by increasing the allowable SO_2 emission limit from 1.2 lbs to 8.0 lbs per million BTU heat input for only one of its units while conducting scrubber research and to allow the Paducah Gaseous Diffusion Plant to increase its emission rate from 1.2 lb SO_2 to 3.1 lbs SO_2 per million BTU heat input. After extensive air dispersion modeling using the Multiple Point Gaussian Dispersion Algorithm with Terrain Adjustment (MPTER) and the Single Source Dispersion Algorithm with Terrain Adjustment (CRSTER), the Kentucky Division for Air Quality has determined that the relaxed emission limitations proposed in these amendments will not affect the air quality of McCracken County, as it relates to SO_2, in such a way as to cause a threat to its environment or to the health and welfare of its citizens. The EPA concurs with the determination by the Kentucky Division for Air Quality.

Final Action

EPA is approving the above referenced revisions to the Kentucky SIP. This action is being taken without prior proposal because the EPA 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 June 3, 1996, unless, by May 2, 1996, 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 then 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 June 3, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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 110 and subchapter I, part D of the CAA 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, I certify 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 regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or

tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 13, 1996.

Phyllis P. Harris,

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 S—Kentucky

2. Section 52.920, is amended by adding paragraph (c) (83) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(83) Revisions to the Kentucky State Implementation Plan submitted by the Natural Resources and Environmental Protection Cabinet on June 15, 1983.

(i) Incorporation by reference.

401 KAR 50:025 Classification of Counties, and 401 KAR 61:015 Existing Indirect Heat Exchangers, effective June 1, 1983.

(ii) Additional material. None.

[FR Doc. 96–7908 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[TN–140–01–6910a; FRL–5443–2]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to New Source Review, Construction and Operating Permit Requirements for Nashville/ Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation on September 27, 1994. The submittal included revisions to Nashville/Davidson County's Regulation Three, New Source Review (NSR), Sections 3–1, 3–2 and 3–3, which were made to bring the Nashville/Davidson County regulations into compliance with the 1990 amendments to the Clean Air Act (the Act) and the Federal regulations. EPA finds that the revised rules meet the Federal nonattainment NSR permitting requirements of the Act for the State's ozone nonattainment areas.

On April 15, 1994, EPA granted limited approval of revisions to the Nashville/Davidson County portion of the Tennessee SIP. At that time several deficiencies were identified which had to be corrected for Nashville/Davidson County's NSR SIP to fully meet the requirements of the CAA. EPA finds that this submittal corrects those previous deficiencies in Nashville/Davidson County's Regulation Three, New Source Review.

DATES: This final rule is effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Ms. Karen Borel, at the Regional Office Address listed below.

Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following 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 Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311—23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen C. Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4197. Reference file TN140–01–6910.

SUPPLEMENTARY INFORMATION: On September 27, 1994, Nashville/ Davidson County submitted revisions to their portion of the Tennessee SIP in order to correct deficiencies previously identified on April 15, 1994, (59 FR 17398) and to fully satisfy the NSR and PSD requirements of the 1990 CAA. Previously, on July 13, 1990, and February 26, 1993, Nashville/Davidson County, through the State of Tennessee Department of Environment and Conservation, submitted various revisions to the Nashville/Davidson County portion of the Tennessee SIP. These earlier submittals included revisions to Regulation Three, New Source Review, and were intended to bring Nashville/Davidson County's regulations into conformity with EPA's Prevention of Significant Deterioration (PSD) increments for Nitrogen dioxides (NO2) and the EPA's current NSR requirements. Nashville/Davidson County was granted limited approval on the earlier submittals on April 15, 1994, (59 FR 17398) because those submittals as a whole substantially strengthened the Nashville/Davidson County portion of the Tennessee SIP. On September 27, 1994, Nashville/Davidson County submitted additional revisions to Regulation Three, Sections 3–1, 3–2 and 3–3. These revisions to their NSR regulations were made to correct the deficiencies identified in the April 15, 1994, Federal Register (59 FR 17938) and to bring Nashville/Davidson County's rules into compliance with the Act, as amended in 1990, and revised Federal regulations.

The current SIP revision was reviewed by EPA to determine completeness, and a letter of completeness dated November 17, 1994, was sent to the State of Tennessee. EPA finds that the revisions provide for consistency with the Act and corresponding Federal regulations, that the revisions meet the new nonattainment NSR provisions for nonattainment areas, and that the revisions correct the previously identified deficiencies. EPA is approving the following revisions to the Nashville/Davidson County portion of the Tennessee SIP.

Regulation Three, New Source Review

(A) Section 3–1 Definitions

Section 3–1(i): The definition of ''commenced'' has been modified by adding ''has all necessary preconstruction approvals or permits and'' between the words ''operator'' and ''has''.