

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

G. 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 the 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 acts on 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.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical

standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today’s action because it does not require the public to perform activities conducive to the use of VCS.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 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. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major” rule as defined by 5 U.S.C. 804(2).

J. 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 June 25, 2002. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 26, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the 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 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(244)(i)(G)(2) and (c)(286)(i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

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*      *      *      *      *
(c) * * *
(244) * * *
(i) * * *
(G) * * *
(2) Rule 74.20, revised on January 14,
1997.
*      *      *      *      *
(286) * * *
(i) * * *
(A) * * *
(2) Rule 1168, amended on September
15, 2000.
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[FR Doc. 02–10168 Filed 4–25–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC–039; 043–200222(a); FRL–7202–4]

Approval and Promulgation of Implementation Plans South Carolina: Approval of Revisions to the 1-Hour Ozone Maintenance State Implementation Plan for the Cherokee County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Cherokee County 1-hour ozone maintenance area portion of the South Carolina Air Quality State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on January 31, 2002. This SIP revision satisfies the requirement of section 175A(b) of the Clean Air Act (CAA) for the second 10-year update for the Cherokee County maintenance plan. Additionally, this submittal explicitly identifies the motor vehicle emission budgets (‘budgets’) for oxides of nitrogen (NO_x) and volatile organic compounds (VOC). In this action, EPA is also approving and finding adequate Cherokee County’s ‘budgets’ for NO_x and VOC supplied in this updated maintenance plan. These budgets,

identified for the year 2012, will be used for the purposes of conducting transportation conformity analyses for Cherokee County, in accordance with the requirements of the CAA amendments of 1990 and the Transportation Conformity rule.

DATES: This direct final rule is effective on June 25, 2002 without further notice, unless EPA receives adverse written comment by May 28, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the action will not take effect. EPA will subsequently respond to submitted comments and take final action on the parallel proposed rule published elsewhere in the proposed rules section of this **Federal Register**.

ADDRESSES: All comments should be addressed to: Sean Lakeman or Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. Persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file number SC-039; 043-200222. 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), EPA, 401 M Street, SW, Washington, DC 20460.

SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Regulatory Planning Section, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman's telephone number is (404) 562-9043. He can also be reached via electronic mail at lakeman.sean@epa.gov.

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. Ms. Benjamin's telephone number is (404) 562-9040. She can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: The following provides additional information and EPA's rationale for approving the revisions to the 1-hour ozone maintenance plan for the Cherokee County portion of the South Carolina SIP.

A. What Is the Background for This Action?

On November 6, 1991, Cherokee County, South Carolina was designated by EPA as a marginal nonattainment area because of multiple exceedances in 1988 of the National Ambient Air Quality Standard (NAAQS) for ozone at the air quality monitor located in the Cowpens National Battle Field. After three consecutive years of satisfactory air quality data, Cherokee County was redesignated to attainment for the 1-hour ozone standard on December 15, 1992 (57 FR 59300). A ten-year maintenance plan for Cherokee County was submitted to and approved by EPA to help assure continued attainment of the 1-hour ozone standard. The mobile emission model, MOBILE 4.1 (the current model at that time), was used to estimate the emissions inventory for VOC, NO_x, and carbon monoxide (CO) for the maintenance plan. The last year for the maintenance plan is 2002.

Through direct final rulemaking, published in the **Federal Register** on December 18, 1998, EPA approved revisions to the 1-hour ozone maintenance plan for the Cherokee County portion of the South Carolina SIP submitted on June 27, 1998, by the State of South Carolina (63 FR 70019). The primary purpose of that action was to incorporate revised motor vehicle emissions budgets for NO_x and VOC for Cherokee County, South Carolina, into the SIP. Specifically, that approval action updated emission projections previously developed with the MOBILE 4.1 emissions model with emission projections developed with the MOBILE 5a emissions model. Further, that action specified that the emission projections for the on-road emissions source category combined with the available safety margin, were being considered as "budgets" to be used for demonstration of conformity of transportation plans,

programs, and projects with the South Carolina SIP for the Cherokee County 1-hour ozone maintenance area. The safety margin was made possible by emission reductions in the area source category for NO_x and VOC emissions from residential wood burning. The previous SIP submittal overestimated emissions from residential wood burning. A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The budget years that resulted from that action were 2000 and 2002, the last year of the maintenance plan.

B. What Did the State Submit?

On February 21, 2001, SC DHEC submitted a SIP revision updating emission projections for the ten-year maintenance period immediately following the last year (i.e., 2002) of the initial maintenance plan submitted for Cherokee County, South Carolina. On January 31, 2002, SC DHEC submitted a revision to the February 21, 2001, submittal that removed the Tier 2/Low Sulfur credit from its earlier revision and recalculated the emissions budget accordingly. These SIP revisions were submitted to satisfy the requirement of section 175A(b) of the CAA and contains comprehensive inventories for VOC, NO_x, and CO emissions for the Cherokee County maintenance area. The inventories include point sources, area sources, on-road mobile, non-road mobile, biogenic sources, and in some cases, a safety margin. The emission projections for area and non-road sources applied growth factors of 10.4 percent for 2000 and 12.5 percent for 2002 to the base line 1990 emissions based on the 1995 *South Carolina Statistical Abstracts*. The 1990 data was taken from the "1990 Base Year Ozone Emissions Inventory for Cherokee County, South Carolina Nonattainment Area," March 1995. Based on more recent data from the 1998 *South Carolina Statistical Abstracts*, the State used a growth rate of 21.4 percent for the 2012 emissions projections. The on-road mobile source projections are based on MOBILE 5a modeling. The following tables list a summary of the CO, NO_x, and VOC emissions for 1990 and 2000, as well as a projection of these emissions for 2002 and 2012.

CHEROKEE COUNTY MAINTENANCE AREA—SUMMARY: DAILY AND ANNUAL EMISSION PROJECTIONS FOR 1990 THROUGH 2012

Pollutant	Tons/Day				Tons/Year			
	1990	2000	2002	2012	1990	2000	2002	2012
VOC	43.47	42.32	42.41	43.28	10,148.40	9,739.86	9,772.63	10,104.83
NO _x	9.37	9.23	9.16	8.36	3,439.30	3,388.29	3,357.74	3,068.34
CO	74.22	46.67	44.23	40.04	30,096.10	20,338.54	19,527.32	18,299.39

CHEROKEE COUNTY MAINTENANCE AREA—DAILY AND ANNUAL VOC EMISSION PROJECTIONS FOR 1990 THROUGH 2012

VOC Emissions	Tons/Day				Tons/Year			
	1990	2000	2002	2012	1990	2000	2002	2012
Point Sources	2.02	2.23	2.27	2.51	614.10	677.97	690.86	763.14
Area Sources	3.79	4.19	4.27	4.61	1,596.40	1,762.43	1,795.95	1,938.03
On-road Mobile	6.11	4.32	4.28	4.59	2,229.20	1,578.37	1,563.23	1,674.74
Non-road Mobile	0.23	0.25	0.26	0.24	71.10	78.49	79.99	86.32
Biogenic Sources	31.32	31.32	31.32	31.32	5,637.60	5,637.60	5,637.60	5,637.60
Safety Margin	NA	0.01	0.01	0.01	NA	5.00	5.00	5.00
Total	43.47	42.32	42.41	43.28	10,148.40	9,739.86	9,772.63	10,104.83

CHEROKEE COUNTY MAINTENANCE AREA—DAILY AND ANNUAL NO_x EMISSION PROJECTIONS FOR 1990 THROUGH 2012

NO _x Emissions	Tons/Day				Tons/Year			
	1990	2000	2002	2012	1990	2000	2002	2012
Point Sources	0.82	0.91	0.93	1.02	270.20	298.30	303.98	335.78
Area Sources	0.21	0.23	0.24	0.26	147.10	162.40	165.49	178.58
On-road Mobile	7.79	7.45	7.34	6.38	2,843.90	2,720.97	2,677.91	2,327.77
Non-road Mobile	0.55	0.61	0.62	0.67	178.10	196.62	200.36	216.21
Biogenic Sources	NA	NA	NA	NA	NA	NA	NA	NA
Safety Margin	NA	0.03	0.03	0.03	NA	10.00	10.00	10.00
Total	9.37	9.23	9.16	8.36	3,439.30	3,388.29	3,357.74	3,068.34

CHEROKEE COUNTY MAINTENANCE AREA—DAILY AND ANNUAL CO EMISSION PROJECTIONS FOR 1990 THROUGH 2012

CO Emissions	Tons/Day				Tons/Year			
	1990	2000	2002	2012	1990	2000	2002	2012
Point Sources	0.26	0.29	0.29	0.32	83.20	91.85	93.60	104.43
Area Sources	5.84	6.45	6.57	7.0	5,319.70	5,872.95	5,984.66	6,458.12
On-road Mobile	64.92	36.40	33.77	28.84	23,695.80	13,272.61	12,326.98	10,526.00
Non-road Mobile	3.20	3.53	3.60	3.88	997.40	1,101.13	1,122.08	1,210.84
Biogenic Sources	NA	NA	NA	NA	NA	NA	NA	NA
Total	74.22	46.67	44.23	40.04	30,096.10	20,338.54	19,527.32	18,299.39

In addition to the updated emission projections and in accordance with the requirements of the Transportation Conformity rule and its subsequent amendments (i.e., 40 CFR part 93), the State explicitly identifies the motor vehicle emission budgets for NO_x and VOC for 2012, and beyond. Until 2012, the applicable budgets for the purposes of conducting transportation conformity analyses for Cherokee County will continue to be the 2002 motor vehicle emissions budgets. Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be

consistent with the requirements in the SIP to attain and maintain the air quality standards. Section 176(c) of Clean Air Act, 42 U.S.C. 7506(c), states that transportation plans, programs and projects conform to an effective implementation plan. The Transportation Conformity Rule and its subsequent amendments require an ozone maintenance area, such as Cherokee County, to compare the actual projected emissions from cars, trucks and buses on the highway network, to the motor vehicle emission budgets established by a maintenance plan. Our approval of this maintenance plan

establishes the motor vehicle emission budgets for transportation conformity purposes. See section entitled, What are the motor vehicle emissions budgets for Cherokee County, South Carolina?, of this rulemaking for more details.

C. Does the State Submittal Meet the SIP Approval Requirements Under Section 110?

This SIP submittal meets the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of

Implementation Plans). Further, the SIP submittal meets the requirements of the Transportation Conformity Rule and its subsequent amendments (i.e., 40 CFR part 93).

D. What Are the Motor Vehicle Emissions Budgets for Cherokee County, South Carolina?

The CAA, as amended in 1990, defines conformity to an implementation plan as conformity to the plan's purpose of reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Specifically, the CAA requires that projects, transportation improvement programs (TIP) and long range transportation plans that are federally funded or approved not cause or contribute to any new violation, increase the frequency or severity of any existing violation, or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. Therefore, the emissions expected from implementation of such transportation projects, plans and programs must be consistent with estimates of emissions from a maintenance plan. As such, SC DHEC has specifically identified emission budgets for VOC and NO_x for the Cherokee County maintenance area.

Section 2.5, Motor Vehicle Emissions Budget, of the State's submittal explicitly defines the on-road mobile sources portion of the emissions inventory for VOC and NO_x as the motor vehicle emission budgets to be used by the South Carolina Department of Transportation and transportation authorities to assure that transportation plans, programs, and projects are consistent with, and conform to, the long-term maintenance of the 1-hour ozone standard in Cherokee County. An emissions budget is the level of controlled emissions from the transportation sector (mobile sources) projected by the state and included in the SIP. The SIP controls emissions through regulation, for example, of fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how states establish the motor vehicle emission budgets in the SIP and revise the emissions budget. The following table highlights the motor vehicle emission budgets for NO_x and VOC for the Cherokee County maintenance area in South Carolina.

2012 MOTOR VEHICLE EMISSIONS BUDGETS FOR CHEROKEE COUNTY

VOC (tons per day)	NO _x (tons per day)
4.59	6.38

Through this action, EPA is notifying the public that we believe the "budgets" for VOC and NO_x identified in the Cherokee County 1-hour ozone maintenance plan update are adequate for conformity purposes and approvable as part of the maintenance plan for this area, because in addition to meeting the requirements of section 175A and 107(d), adequate opportunity for public comment on these "budgets" was provided through the State public comment process and the adequacy process (posted February 12, 2002). As of March 14, 2002, the close of the public notice period, there were no requests for copies of the State's submittal for public review or comment.

E. What is the Process for EPA Approval of This Action?

EPA is publishing approval for this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve this action should adverse written comments be filed. This action will be effective on June 25, 2002 without further notice unless EPA receives adverse comment by May 28, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the clarification for this rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Final Action

EPA is approving revisions to the 1-hour ozone maintenance plan to update emission projections for the next ten-year maintenance period for the Cherokee County, South Carolina maintenance area. Additionally, EPA is deeming adequate and approving the motor vehicle emission budgets for the Cherokee County maintenance area for VOC and NO_x for the year 2012, and beyond.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is

not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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 action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission,

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 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. EPA will submit 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 United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 2002. 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, Intergovernmental

relations, Ozone, Reporting and recordkeeping requirements.

Dated: April 18, 2002.

Winston A. Smith,

Acting for Regional Administrator, Region 4.

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 *et seq.*

Subpart PP—South Carolina

2. Revise § 52.2120(e) to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) EPA-approved South Carolina non-regulatory provisions.

Provision	State effective date	EPA approval date	Explanation
Cherokee County Ozone Ten Year Maintenance Plan	01/31/02	April 26, 2002.	

[FR Doc. 02-10334 Filed 4-25-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[Alaska 001; FRL-7201-8]

Outer Continental Shelf Air Regulations Consistency Update for Alaska; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects an error in the "effective date" language of a final rule pertaining to the update of the Outer Continental Shelf (OCS) Air Regulations as they apply to OCS sources off the coast of Alaska.

DATES: This correction is effective on April 26, 2002.

FOR FURTHER INFORMATION CONTACT: Dan Meyer, Office of Air Quality (OAQ-107), U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone: (206) 553-4150.

SUPPLEMENTARY INFORMATION:

Correction

In rule document No. 02-6612, on page 14646, in the issue of March 27,

2002, in the first column, the effective date is corrected to read:

EFFECTIVE DATE: This rule is effective on April 26, 2002. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 26, 20002.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed