any TAPS tank vessel maneuvering to approach, moor, unmoor or depart the TAPS Terminal or is transiting, maneuvering, laying to or anchored within the boundaries of the Captain of the Port, Prince William Sound Zone described in 33 CFR 3.85(b).

(3) Valdez Narrows, Port Valdez, Valdez, Alaska. All waters within 200 yards of the Valdez Narrows Tanker Optimum Track line bounded by a line beginning at 61°05216.03 N, 146°37220.03 W; thence south west to 61°04200.03 N, 146°39252.03 W; thence southerly to 61°02233.53 N, 146°41228.03 W; thence north west to 61°02240.53 N, 146°41247.53 W; thence north east to 61°04206.03 N, 146°40214.53 W; thence north east to 61°05223.03 N, 146°37240.03 W; thence south east back to the starting point at 61°05216.03 N, 146°37220.03.

(i) The Valdez Narrows Tanker Optimum Track line is a line commencing at 61°05223.03 N, 146°37222.53 W; thence south westerly to 61°04203.23 N, 146°40203.23 W; thence southerly to 61°032003 N, 146°412123W.

(ii) This security zone encompasses all waters approximately 200 yards either side of the Valdez Narrows Optimum Track line.

(b) Effective dates. This section is effective from January 1, 2003 until June 30, 2003.

(c) Authority. In addition to 33 U.S.C. 1281 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) Regulations. (1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessels transiting directly to the TAPS terminal complex, engaged in the movement of oil from the terminal or fuel to the terminal, and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service may operate as necessary to ensure safe passage of tank vessels to and from the terminal.

(3) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a vessel displaying a U.S. Coast Guard ensign by siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed. Coast Guard Auxiliary and local or state agencies may be present to inform vessel operators of the requirements of this section and other applicable laws.

Dated: December 30, 2002.

M.A. Swanson,

Commander, United States Coast Guard, Captain of the Port, Prince William Sound, Alaska.

[FR Doc. 03–12183 Filed 5–15–03; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–248–2003217(a); FRL–7498–6]

Approval and Promulgation of Implementation Plans: Revisions to Tennessee State Implementation Plan: Transportation Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Tennessee State Implementation Plan (SIP) submitted on March 19, 2002, with the exception of one state regulation pertaining to triggers. The revision contains the transportation conformity rule pursuant to the Clean Air Act as amended in 1990 (Act), including detailed consultation procedures for implementing the transportation conformity rule. The transportation conformity rule assures that projected emissions from transportation plans, improvement programs and projects in air quality nonattainment or maintenance areas stay within the motor vehicle emissions ceiling contained in the SIP. The transportation conformity SIP revision enables the State to implement and enforce the Federal transportation conformity requirement at the state level. This action streamlines the conformity process to allow direct consultation among agencies at the local level. This final approval action is limited to requirements for transportation conformity.

DATES: This direct final rule is effective July 15, 2003 without further notice, unless EPA receives adverse comment by June 16, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Kelly Sheckler at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following address for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Kelly Sheckler, (404) 562–9042.

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

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler at (404) 562–9042, e-mail: *Sheckler.Kelly@epa.gov*

SUPPLEMENTARY INFORMATION: On March 19, 2002, Tennessee submitted a revision to the SIP, with the exception of one state regulation pertaining to triggers. The revision contains the transportation conformity rule pursuant to the Clean Air Act as amended in 1990 (Act), including detailed consultation procedures for implementing the transportation conformity rule. The information on this action is organized as follows:

I. Background
- A. What is a SIP?
- B. What is the Federal Approval Process for a SIP?
- C. What is Transportation Conformity?
- D. Why Must the State Submit a Transportation Conformity SIP?
- E. How Does Transportation Conformity Work?

II. Approval of the State Transportation Conformity Rule
- A. What Did the State Submit?
- B. What is EPA Approving Today and Why?
- C. How Did the State Satisfy the Interagency Consultation Process (40 CFR 93.105)?

III. Final Action

IV. Statutory and Executive Order Reviews

I. Background

A. What Is a SIP?

The states, under section 110 of the Act, must develop air pollution regulations and control strategies to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS) established by EPA. The Act, under section 109, established these NAAQS which currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must send these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP, which protects air quality and contains emission control plans for NAAQS nonattainment areas. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as

emission inventories, monitoring networks, and modeling demonstrations.

B. What Is the Federal Approval Process for a SIP?

The states must formally adopt the regulations and control strategies consistent with state and Federal laws for incorporating the state regulations into the Federally enforceable SIP. This process generally includes a public notice, public comment period, public hearing, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state will send these provisions to EPA for inclusion in the Federally enforceable SIP. EPA must then determine the appropriate Federal action, provide public notice, and request additional public comment on the action. The possible Federal actions include approval, disapproval, conditional approval and limited approval/disapproval. If adverse comments are received, EPA must consider and address the comments before taking final action.

EPA incorporates state regulations and supporting information (sent under section 110 of the Act) into the Federally approved SIP through the approval action. EPA maintains records of all such SIP actions in the CFR at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The EPA does not reproduce the text of the Federally approved state regulations in the CFR. They are ''incorporated by reference,'' which means that the specific state regulation is cited in the CFR and is considered a part of the CFR the same as if the text were fully printed in the CFR.

C. What Is Transportation Conformity?

Conformity first appeared as a requirement in the Act's 1977 amendments (Pub. L. 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

The 1990 Amendments to the Act expanded the scope and content of the conformity concept by defining conformity to a SIP. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Also, the Act states ''that no Federal activity will: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.'' The requirements of section 176(c) of the Clean Air Act apply to all departments, agencies and instrumentalities of the Federal government. Transportation conformity refers only to the conformity of transportation plans, programs and projects that are funded or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. Chapter 53).

D. Why Must the State Submit a Transportation Conformity SIP?

A transportation conformity SIP is a plan which contains criteria and procedures for the State Department of Transportation (DOT), Metropolitan Planning Organizations (MPOs), and other state or local agencies to assess the conformity of transportation plans, programs and projects to ensure that they do not cause or contribute to new violations of a NAAQS in the area substantially affected by the project, increase the frequency or severity of existing violations of a standard in such area or delay timely attainment. 40 CFR part 51.390, subpart T requires states to submit a SIP that establishes criteria for conformity to EPA. 40 CFR part 93, subpart A, provides the criteria the SIP must meet to satisfy 40 CFR part 51.390.

EPA was required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required the procedure to include a requirement that each state submit a revision to its SIP including conformity criteria and procedures. EPA published the first transportation conformity rule in the November 24, 1993, **Federal Register** (FR), and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. The transportation conformity rule required the states to adopt and submit a transportation conformity SIP revision to the appropriate EPA Regional Office by November 25, 1994. The State of Tennessee submitted a transportation conformity SIP to the EPA Region 4 on November 15, 1994. EPA did not take action on this SIP because the Agency was in the process of revising the transportation conformity requirements. EPA revised the transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), and August 15, 1997 (62 FR 43780), and codified the revisions under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. of the Federal Transit Laws (62 FR 43780). EPA's action of August 15, 1997, required the states to change their rules and submit a SIP revision to EPA by August 15, 1998.

States may choose to develop in place of regulations, a memorandum of agreement (MOA) which establishes the roles and procedures for transportation conformity. The MOA includes the detailed consultation procedures developed for that particular area. The MOAs are enforceable through the signature of all the transportation and air quality agencies, including the Federal Highway Administration, Federal Transit Administration and the Environmental Protection Agency.

E. How Does Transportation Conformity Work?

The Federal or state transportation conformity rule applies to all NAAQS nonattainment and maintenance areas in the state. The MPO, the DOT (in absence of a MPO), State and local Air Quality Agencies , U.S. Environmental Protection Agency and U.S. Department of Transportation (USDOT) are involved in the process of making conformity determinations. Conformity determinations are made on programs and plans such as transportation improvement programs (TIP), transportation plans, and projects. The MPOs calculate the projected emissions that will result from implementation of the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions budget established in the SIP. The calculated emissions must be equal to or smaller than the Federally approved motor vehicle emissions budget in order for USDOT to make a positive conformity determination with respect to the SIP.

II. Approval of the State Transportation Conformity Rule

A. What Did the State Submit?

The State of Tennessee chose to address the transportation conformity SIP requirements using state rules that incorporate by reference portions of the federal conformity rule and specific rules that provide the procedures for interagency consultation. The Transportation conformity rule, part 93.105, requires the state to develop specific procedures for consultation, resolution of conflict and public consultation. On March 19, 2002, the

State of Tennessee, through the Department of Environment and Conservation (DEC), submitted the rules for transportation conformity. DEC gave notice of rule-making proceedings to the public on April 6, 1998, held a public hearing on May 18, 1998 and the rules were approved by the Tennessee Air Pollution Control Board on September 13, 2000. These amendments to Department of Environment and Conservation Rule Chapter 1200–3–34, filed on August 31, 2001, became effective November 14, 2001.

B. What Is EPA Approving Today and Why?

EPA is approving the Tennessee transportation conformity rule submitted to the EPA Region 4 office on March 19, 2002, by the Technical Secretary of the Tennessee Air Pollution Control Board. One exception is the approval of one provision in 1200–3–34–.01 (2), where subpart A of the conformity rule 40 CFR part 93 is adopted by reference. 40 CFR part 93.104(e), was amended after the state went through its public adoption process. EPA amended 93.104(e) in August 2002, changing the starting point for eighteen month clocks from the date of SIP submittal to the date of adequacy determination of the motor vehicle emissions budgets. Refer to the August 6, 2002, final rule (67 FR 50808) for more details. Therefore, the Tennessee rule incorporating by reference the 40 CFR part 93, subpart A, will not include section 93.104(e).

Furthermore, Tennessee's incorporation by reference of the conformity rule did not include portions of the regulations affected by the federal court decision in *Environmental Defense Fund* v. *Environmental Protection Agency,* 167 F.3d 641 (D.C. Cir. 1999) and *Sierra Club* v. *EPA, et. al.,* 129 F. 3d 137 (D.C. Cir. 1997). These include the following sections: 93.102(c)(1), 93.102(d), 93.118(e)(1), 93.120(a)(2), 93.121(a)(1) and 93.124(b). For all those portions not incorporated by reference, the Federal transportation conformity rule will take precedence.

EPA has evaluated this SIP revision and determined that the SIP requirements of the Federal transportation conformity rule, as described in 40 CFR part 51, subpart T and 40 CFR part 93, subpart A, have been met. Therefore, EPA is approving this revision to the Tennessee SIP.

C. How Did the State Satisfy the Interagency Consultation Process (40 CFR 93.105)?

EPA's rule requires the states to develop their own processes and procedures for interagency consultation among Federal, state, and local agencies and resolution of conflicts meeting the criteria of 40 CFR 93.105. The SIP revision must include the process and procedures to be followed by the MPOs, DOT, Federal Highway Administration (FHWA), Federal Transit Administration (FTA), local transit operators, the state and local air quality agencies and EPA before making conformity determinations. The transportation conformity SIP revision must also include processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, state DOTs, FHWA and FTA.

The State of Tennessee developed its statewide consultation rule based on the elements contained in state rule 1200–3–34 (3). The consultation process developed by the Tennessee Air Pollution Control Division (TAPCD) is unique to the state of Tennessee and is enforceable, effective November 14, 2001, signed by the City of Nashville Secretary of State on January 29, 2002.

III. Final Action

EPA is approving the aforementioned changes to the Tennessee SIP, with the exception of the incorporation of reference to 40 CFR part 93.104(e) in 1200–3–34–.01(3) which requires the state to comply with outdated conformity rule trigger provisions, because the state adopted this regulation prior to EPA's rulemaking amendment on August 6, 2002.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 15, 2003 without further notice unless the Agency receives adverse comments by June 16, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 15, 2003 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews:

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 (Pub. L. 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. section 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. section 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 July 15, 2003. 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).)

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 July 15, 2003. 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 29, 2003.

Stanley L. Meiburg,

Acting Regional Administrator, Region 4.

■ Chapter I, title 40, *Code of Federal Regulations,* 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—Tennessee

■ 2. Section 52.2220(c) is amended by adding in numerical order a new chapter heading No. ''1200–3–34 Conformity'', and an entry for ''1200–3–34–.01'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 1200–3–34 Conformity				
Section 1200–3–34–.01.	Conformity of Transportation Plans, Programs, and Projects.	November 14, 2001.	May 16, 2003. [Insert citation of publication].	Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Confirmity Rule.

* * * * *

[FR Doc. 03–12178 Filed 5–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC052–7007, MD143–3102, VA129–5065; FRL–7499–9]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post 1996 Rate-of-Progress Plans and One-Hour Ozone Attainment Demonstrations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error and clarifies the preamble language of EPA's conditional approval of the severe ozone nonattainment area State Implementation Plan (SIP) revisions for the Metropolitan Washington severe ozone nonattainment area. This document also corrects several typographical errors in the preamble language of this conditional approval.

EFFECTIVE DATE: May 19, 2003.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher.@epa.gov.*