

costs (including installation costs) allocable to such property incurred before it was leased, notwithstanding that such costs were not included in the lessor's adjusted basis under the terms of the lease agreement, provided the parties to such agreement reasonably believed they had leased the whole property. This regulation is intended only to help those firms that erroneously failed to include direct and indirect costs allocable to the property leased under the TEFRA transitional rules because they had to close their transactions before T.D. 7850 was issued. This regulation is not intended to allow firms to transfer additional property not included as part of the original lease.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553 (b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 5f

Income tax, Deductions, Leasing, Tax Equity and Fiscal Responsibility Act of 1982.

PART 5f—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 5f is amended as follows:

Section 5f.168(f)(8)-1 is amended by adding a new subdivision (iii) to item A-2. The added provision reads as follows:

§ 5f.168(f)(8)-1 Questions and answers concerning transitional rules and related matters regarding certain safe harbor leases.

A-2: * * *

(iii) The adjusted basis to the lessor of property leased on or prior to December 1, 1982, under a transitional safe harbor lease shall be deemed to include all direct and indirect costs (including installation costs) described in subdivision (ii) allocable to such property that were incurred before it was leased despite the fact that such costs were not included in the lessor's adjusted basis of such property under the terms of the lease agreement, provided that the parties to such agreement reasonably believed that they had leased the whole of such property. Such costs will be treated as having been included in the lessor's adjusted basis of such safe harbor lease property on the date the lease agreement was executed without regard to any provisions in the lease agreement that limits the dollar amount of the permissible adjustment of the lessor's adjusted basis to such property. To qualify for inclusion of such direct and indirect costs within the basis of such property, the parties to such agreement must file an amended Form 6793, the Safe Harbor Lease Information Return, no later than April 21, 1983, which reflects the parties' intent to include installation and other such costs within the basis of such property. For purposes of this subdivision, a transitional safe harbor lease is a lease either which was executed after July 1, 1982, and on or prior to December 1, 1982, or which includes some transitional safe harbor lease property, as defined in TEFRA section 206(d)(3), that was placed in service after July 1, 1982, and on or prior to December 1, 1982.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 16, 1983.

John E. Chapoton,
Assistant Secretary of the Treasury.
[FR Doc. 83-7402 Filed 3-21-83; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Part 53

[T.D. 7878]

Foundation and Similar Excise Taxes; Private Foundation Distributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to private

foundation distributions. Changes to the applicable law were made by the Economic Recovery Tax Act of 1981 ("ERTA"). The regulations conform existing regulations with ERTA and affect all private foundations.

DATE: The regulations are effective for taxable years beginning after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:LR:T:EE-153-81, (202-566-3422) (not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 13, 1982, the Internal Revenue Service published in the Federal Register proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(d) and section 4942(j)(3)(A) of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 823 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 351). A public hearing was not held. There were two comments on the proposals. These comments dealt with portions of the regulations not affected by the notice. The proposals are adopted without change as final regulations.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Monice Rosenbaum of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(d) and section 4942(j)(3)(A), as published in the Federal Register (47 FR 20629) on May 13, 1982, are adopted without change. These regulations were issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 7, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

The amendments to 26 CFR Part 53 are as follows:

1. Paragraph (b)(1) of § 53.4942(a)-2 is revised to read as follows:

§ 53.4942(a)-2 Computation of undistributed income.

(b) Distributable amount—(1) In general. For purposes of paragraph (a) of this section, the term "distributable amount" means—

(i) For taxable years beginning before January 1, 1982, an amount equal to the greater of the minimum investment return (as defined in paragraph (c) of this section) or the adjusted net income (as defined in paragraph (d) of this section); and

(ii) For taxable years beginning after December 31, 1981, an amount equal to the minimum investment return (as defined in paragraph (c) of this section), reduced by the sum of the taxes imposed on such private foundation for such taxable year under subtitle A of the Code and section 4940, and increased by the amounts received from trusts described in subparagraph (2) of this paragraph.

2. Paragraph (a)(1) of § 53.4942(b)-1 is revised to read as follows:

§ 53.4942(b)-1 Operating foundations.

(a) Operating foundation defined—(1) In general. For purposes of section 4942 and the regulations thereunder, the term "operating foundation" means any private foundation which, in addition to satisfying the assets test, the endowment test or the support test set forth in § 53.4942(b)-2 (a), (b) and (c),

makes qualifying distributions (within the meaning of § 53.4942(a)-3(a)(2)) directly for the active conduct of activities constituting its charitable, educational, or other similar exempt purpose equal in value to—

(i) For taxable years beginning before January 1, 1982, substantially all of the foundation's adjusted net income (as defined in § 53.4942(a)-2(d)); and

(ii) For taxable years beginning after December 31, 1981, substantially all of the lesser of the foundation's adjusted net income (as defined in § 53.4942(a)-2(d)) or minimum investment return (as defined in § 53.4942(a)-2(c)). If the foundation's qualifying distributions exceed its minimum investment return (but are less than the foundation's adjusted net income) substantially all of such qualifying distributions must be made directly for the active conduct of activities constituting its charitable, educational or other similar exempt purpose. However, if the foundation's minimum investment return is less than its adjusted net income and the foundation's qualifying distributions equal or exceed such adjusted net income, only that portion of the qualifying distributions equal to substantially all of the foundation's adjusted net income must be made directly for the active conduct of activities constituting its charitable, educational or other similar exempt purpose.

[FR Doc. 83-7401 Filed 3-21-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR**Office of the Secretary****29 CFR Part 0****Post Employment Conflict of Interest**

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The rule provides for the Department of Labor's implementation of Title V of the Ethics in Government Act of 1978 (as amended) with respect to post employment conflicts of interest and it establishes the procedures for imposing administrative sanctions for violation of these post employment laws.

EFFECTIVE DATE: April 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel. (202) 523-8201.

SUPPLEMENTARY INFORMATION:**Background**

Subsections (a), (b) and (c) of section 207, Title 18, United States Code contain various criminal prohibitions on activities of former United States Government employees. Section 207(j), as added by section 501(a) of the Ethics in Government Act of 1978 (Pub. L. 95-521), requires Federal departments and agencies to establish administrative disciplinary procedures within their respective departments and agencies with respect to alleged violations of 18 U.S.C. 207(a), (b) and (c). These procedures have been developed in consultation with the Office of Government Ethics in the Office of Personnel Management and provide for implementation of 18 U.S.C. 207(j) with respect to the Department of Labor.

Please note that certain matters concerning post employment activities of former employees are also subject to action by the Office of the Inspector General, Department of Labor, under the Inspector General Act of 1978 (Pub. L. 95-452).

It has been determined that this is a rule of agency organization, procedure and practice and it may therefore be published as a final rule in accordance with 5 U.S.C. 553(b)(A).

Drafting Information

This document was prepared under the direction and control of T. Timothy Ryan, Jr., Solicitor of Labor, U.S. Department of Labor, Room S-2002, 200 Constitution Avenue NW., Washington, D.C. 20210, Telephone 202-523-7675.

Classification

The revision is procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 91 Stat. 1164, 5 U.S.C. 601 *et seq.*,

pertaining to regulatory flexibility analyses, do not apply to this rule. See: 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 0

Conflict of interest, Ethics, Government employees, Reporting requirements, Administrative practice and procedures.

Accordingly, 29 CFR Part 0 is amended by adding a new Subpart F, §§ 0.737-1 through 0.737-10, to read as follows:

PART 0—[AMENDED]

* * *

Subpart F—Post Employment Conflict of Interest

Sec.

- 0.737-1 Applicability.
- 0.737-2 Appointment of alternate officials.
- 0.737-3 Initiation of administrative disciplinary hearing.
- 0.737-4 Request for a hearing.
- 0.737-5 Appointment of examiner.
- 0.737-6 Time, date and place of hearing.
- 0.737-7 Hearing rights.
- 0.737-8 Hearing decision and exceptions.
- 0.737-9 Decision on exceptions.
- 0.737-10 Administrative sanctions.
- 0.737-11 Judicial review.

Authority: 18 U.S.C. 207, as amended, and 5 CFR Part 737 unless otherwise noted.

* * *

Subpart F—Post Employment Conflict of Interest

§ 0.737-1 Applicability.

This subpart is applicable to any former employee of the Department of Labor leaving Government service on or after July 1, 1979.

§ 0.737-2 Appointment of alternate officials.

Notwithstanding any other provision of this subpart, the Secretary of Labor is authorized to perform any of the functions otherwise assigned in this subpart to the Under Secretary in any proceeding. The Secretary is also authorized to appoint as an alternate official any other officer or employee of the Department of Labor to perform functions otherwise assigned in this subpart to the Under Secretary or the Solicitor of Labor in any proceeding; except that: (a) The functions otherwise assigned in this subpart to the Under Secretary and the Solicitor shall not both be performed by the same alternate official in the same proceeding, and (b) the same individual shall not be appointed as both an Examiner under § 0.737-5 and an alternate official under this section in the same proceeding.

§ 0.737-3 Initiation of administrative disciplinary hearing.

(a) Any person may, in writing, report an apparent violation of 18 U.S.C. 207 (a), (b) or (c) or the regulations of the Office of Personnel Management at 5 CFR Part 737 by a former employee described in § 0.737-1 to the Solicitor of Labor.

(b) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears to be substantiated, the Solicitor shall expeditiously provide such information, along with any comments or agency regulations, to the Office of the Inspector General, the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice.

(c) Whenever the Solicitor has determined after appropriate review that there is reasonable cause to believe that a former employee described in § 0.737-1 has violated 18 U.S.C. 207 (a), (b) or (c) or the regulations of the Office of Personnel Management at 5 CFR Part 737, the Solicitor may initiate an administrative disciplinary proceeding by providing the former employee with a notice of alleged violation.

(d) The notice of alleged violation shall include:

(1) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former employee to prepare an adequate defense;

(2) Notification of the right to a hearing; and

(3) An explanation of the method by which a hearing may be requested.

§ 0.737-4 Request for a hearing.

(a) Any former employee who is the subject of a notice of alleged violation issued by the Solicitor under § 0.737-3 may within 15 days from the date of such notice request a hearing by writing to: The Office of the Under Secretary, U.S. Department of Labor, 200 Constitution Avenue, Washington, D.C. 20210.

(b) If the former employee fails to request a hearing in accordance with paragraph (a), the Under Secretary may then render a final administrative decision in the matter and, if appropriate, impose the sanctions specified in § 0.737-10.

§ 0.737-5 Appointment of Examiner.

Whenever a notice of alleged violation has been issued and a hearing requested, the Under Secretary shall provide for the selection of a Department of Labor Administrative Law Judge, appointed in accordance

with 5 U.S.C. 3105, to act as the Examiner with respect to the matter.

§ 0.737-6 Time, date and place of hearing.

(a) Any hearing shall be conducted at a reasonable time, date and place as determined by the Examiner.

(b) In setting a hearing date the Examiner shall give due regard to the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 0.737-7 Hearing rights.

(a) The following rights shall be afforded at a hearing conducted before the Examiner:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument; and

(5) To obtain a transcript or recording of proceedings, on request.

(b) In a hearing under this Subpart, the Federal Rules of Civil Procedure and Evidence do not apply. However, the Examiner may make orders and determinations regarding discovery, admissibility of evidence, conduct of examination and cross-examination, and similar matters as the Examiner deems necessary or appropriate to ensure orderliness of the proceedings and fundamental fairness to the parties.

(c) In any proceeding under this subpart, the Department must establish any violation by a preponderance of the evidence.

§ 0.737-8 Hearing decision and exceptions.

The Examiner shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the hearing decision all findings of fact and conclusions of law relevant to the matters at issue. The hearing decision of the Examiner shall be considered final agency administrative action unless either party files exceptions in writing to the Under Secretary, U.S. Department of Labor, 200 Constitution Avenue, Washington, D.C. 20210 within 30 days from the date of such hearing decision.

§ 0.737-9 Decision on exceptions.

(a) Upon receipt of exceptions, the Under Secretary may afford both parties an opportunity to submit briefs or other appropriate statements in support of their respective positions.

(b) the Under Secretary shall issue a decision based solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(c) If the Under Secretary modifies or reverses the initial hearing decision of the Examiner, he or she shall specify such findings of fact and conclusions of law as are different from those of the Examiner.

0.737-10 Administrative sanctions.

The Examiner (or the Under Secretary in any matter in which exceptions are filed or which is decided in accordance with § 0.737-4(b)) may take appropriate action in the case of any individual found in violation of 18 U.S.C. 207(a), (b) or (c) or of the regulations at 5 CFR Part 737 upon final administrative decisions by:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or, with the intent to influence, any oral or written communication to the Department of Labor on any matter of business for a period not to exceed five years, which may be accomplished by directing agency employees to refuse to participate in any such appearance or to accept any such communications; or

(b) Taking other appropriate disciplinary action.

0.737-11 Judicial review.

Any person found to have participated in a violation of 18 U.S.C. 207(a), (b), or (c) or the regulations at 5 CFR Part 737 may seek judicial review of the administrative determination in an appropriate United States district court.

Signed at Washington, D.C. this 17th day of March, 1983.

Raymond J. Donovan,
Secretary of Labor.

(FR Doc. 83-7369 Filed 3-21-83; 8:45 am)
BILLING CODE 4510-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY-011; A-4-FRL 2308-6]

Approval and Promulgation of Implementation Plans; Kentucky: Removal of Conditions and Full Approval of Part D Sulfur Dioxide SIP Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its full approval of the State Implementation Plan (SIP) revisions which Kentucky developed for sulfur dioxide (SO₂) nonattainment areas pursuant to Part D of Title I of the Clean Air Act. The action taken today removes the conditions attached to EPA's approval of these revisions on October 31, 1980 (45 FR 72153). On September 24, 1982, the Kentucky Natural Resources and Environmental Protection Cabinet submitted the changes needed to satisfy the conditions of approval. EPA has reviewed the changes and finds them approvable.

EFFECTIVE DATE: This action will be effective on May 23, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted to the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street, SW., Washington, D.C.
20460.

Office of the Federal Register, Room
8401, 1100 L Street, SW, Washington,
D.C. 20460.

Environmental Protection Agency,
Region IV, 345 Courtland Street, NE,
Atlanta, GA 30365.

Kentucky Natural Resources and
Environmental Protection Cabinet,
Division of Air Pollution Control, 18
Reilly Road, Building No. 2 Ft. Boone
Plaza, Frankfort, KY 40601.

FOR FURTHER INFORMATION CONTACT:
Melvin Russell, EPA Region IV, Air
Programs Branch at the Region IV
address above or call 404/881-3286 or
FTS 257-3286.

SUPPLEMENTARY INFORMATION: This notice announces full approval of Kentucky's Part D SO₂ SIP revisions and removes the conditions of approval noted in the October 31, 1980, Federal Register (45 FR 72153). In the October 31, 1980, notice, EPA outlined deficiencies in Kentucky's revisions. In an April 3, 1981, notice (46 FR 20171), EPA clarified portions of the October 31, 1980, notice. The clarification reiterated EPA's position that continuous monitoring should be conducted in the vicinity of the Ashland Oil complex in Boyd County.

Kentucky has satisfied all conditions required by EPA's October 31, 1980 conditional approval (45 FR 72153). The Kentucky SIP revision being approved in this rulemaking corrects the SIP deficiencies associated with the Boyd County SO₂ nonattainment area. The

October 31, 1980, notice at page 72158, under § 52.928 Control strategy: Sulfur oxides, paragraph (a)(1), states the deficiencies associated with the SIP for this area as follows:

(1) Boyd County nonattainment area. The 1979 sulfur dioxide revisions for this area are approved on condition that the following be submitted by July 1, 1981:

(i) An enforceable regulation for continually determining compliance with Kentucky regulation 401 KAR 61:015 Section 5(4).

(ii) A revision of regulation 401 KAR 61:015 providing increments or progress in compliance schedules applicable to sources which are being made subject to more stringent emission limits.

(iii) A commitment, with regard to ambient monitoring around the Ashland Oil complex, that the monitoring will begin by a certain date, will be conducted for a specific length of time, and will be done with a Federal equivalent method.

Kentucky's September 24, 1982, submittal corrects these deficiencies by including the following as part of an agreed order between the State and Ashland Oil, Inc:

1. Method for determining compliance with Kentucky Regulation 401 KAR 61:015 on a continual basis (Item 1 of the order).

2. Legally enforceable compliance schedules for Kentucky regulation 401 KAR 61:145, Existing Petroleum Refineries. The schedule satisfies EPA's request for the state to revise Regulation 401 KAR 61:015, because the schedule achieves the same end under 61:145 as it would under 61:015 for the affected source. (Item 3 of the order). Regarding compliance schedules for 401 KAR 61:015 (Existing Indirect Heat Exchangers) for sources in other counties which are being made subject to more stringent emission limits: Kentucky has satisfied this condition by certifying in a letter dated October 23, 1982, that the only sources being made subject to more stringent emission limits are located in Muhlenberg County. EPA has determined that the present SIP includes an applicable compliance timetable for the Muhlenberg County sources at Section 8(2) (b) and (c) of 401 KAR 61:015. Therefore, it is not necessary to revise 401 KAR 61:015 and the deficiencies regarding Boyd County are the only deficiencies for which a SIP revision is required.

3. Ambient SO₂ monitoring requirements according to item (1)(iii) page 72158 of the October 31, 1980 notice and the clarification notice of April 3, 1981 (46 FR 20171). (Item 2 of the order).

The order, in accordance with Kentucky regulations 401 KAR 59:015 and 401 KAR 61:015 Section 3(3)(a),

provides for stack-by-stack alternative emission limitations for the applicable sources. The alternative emission limitation for the indirect heat exchangers is established as an overall allowable of 1.01 lbs/MMBTU of heat input on a twenty-four hour basis. This emission limit became effective October 1, 1981. This alternative emission limitation provides a net air quality improvement since the old allowable for each indirect heat exchanger was 1.1 lbs/MMBTU.

The affected sources have met all requirements of the compliance schedule to date and are in compliance with the overall 1.01 lbs/MMBTU emission limit. EPA finds the emission limits and the Kentucky procedures for determining compliance approvable.

Action: Having found Kentucky's Part D SO₂ SIP revisions consistent with EPA requirements, EPA today fully approves the State's Part D SO₂ SIP revisions.

This action will be effective 60 days from the date of this Federal Register notice. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under section 307(b)(1) of the Act petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502])

Dated: March 14, 1983.

John W. Hernandez,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

§ 52.920 [Amended]

1. In § 52.920, is amended by adding paragraph (c)(35) as follows:

§ 52.920 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(35) Corrections in 1979 Part D revisions for sulfur dioxide nonattainment area (Boyd County), submitted on September 24, 1982, by the Kentucky Natural Resources and Environmental Protection Cabinet.

§ 52.928 [Reserved]

2. Section 52.928, Control strategy: Sulfur oxides, is removed and reserved.

[FR Doc. 83-7348 Filed 3-21-83; 8:45 am]

BILLING CODE 6590-50-M

40 CFR Part 52

[TN-005; A-4-FRL 2267-4]

Approval and Promulgation of Implementation Plans; Tennessee; 1979 Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is conditionally approving the State Implementation Plan (SIP) revision submitted by the State of Tennessee for the Chattanooga-Hamilton County total suspended particulate (TSP) nonattainment area. This action is based on the State's submittal of a control strategy and regulations as required by Part D of Title I of the Clean Air Act (CAA) of 1977. An improvement in the air quality in Chattanooga-Hamilton County is expected from this action.

EFFECTIVE DATE: April 21, 1983.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations.

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street, SW., Washington, D.C.
20460;

Library, Office of the Federal Register,
1100 L Street NW., Room 8401,
Washington, D.C. 20005;

Environmental Protection Agency,
Region IV, Air Management Branch,
345 Courtland Street, N.E., Atlanta,
Georgia 30365;

Tennessee Air Pollution Control
Division, 150 9th Avenue North,
Nashville, Tennessee 37203; or
Chattanooga-Hamilton County Air
Pollution Control Bureau, 3511
Rossville Boulevard, Chattanooga,
Tennessee 37407.

FOR FURTHER INFORMATION CONTACT:
Raymond S. Gregory of EPA Region IV's
Air Management Branch, 345 Courtland
Street, N.E., Atlanta, Georgia 30365,
telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: In the
March 3, 1978, Federal Register (43 FR
8962 at 9035), a number of areas within
the State of Tennessee were designated
as not attaining certain national ambient
air quality standards (NAAQS).
Included in those areas was that portion
of Hamilton County within,
approximately, the city limits of
Chattanooga which was designated as
not attaining the primary ambient
standard for total suspended
particulates (TSP).

General Discussion

The implementation plan revision submitted for this area by Tennessee's Department of Public Health under Part D of Title I of the CAA was submitted for EPA's approval on November 6, 1981. A discussion of this submittal was included in the proposed rulemaking in the June 28, 1982, Federal Register (47 FR 27874). Additional information and required revisions identified in the June 28, 1982, notice were submitted on December 22, 1982. One comment was received in response to EPA's notice of proposed rulemaking. The Glass Packaging Institute (GPI) objected to the emission standard contained in the regulations for Glass Manufacturing Plants. GPI contends that the mass emission limit of 0.9 pounds per ton (ppt) of glass pulled is "too stringent to be considered RACT (Reasonably Available Control Technology) and that the record in Tennessee does not support the feasibility of such a severe standard."

In response, EPA has documentation that the only glass manufacturing facility currently in the affected area is already in compliance with the emission limit by a substantial margin. Since the facility is meeting the limitation without additional control equipment being required, it is apparent that the standard