State and County regulations are consistent with these guidelines.

Consistent with EPA's guidance, both the State and County regulations require that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency by using a system approved by the California Air Resources Board (CARB). The State and County regulations require sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change). The State and County regulations have also established an inspection program consistent with that described in EPA's guidance and has established procedures for enforcing violations of the Stage II requirements.

Rule 1200–3–18–.24, Gasoline Vapor Recovery, Stage II

The Nashville area is designated nonattainment for ozone and classified as moderate. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Under section 182(b)(3) of the CAA, Tennessee was required to submit Stage II vapor recovery rules for this area by November 15, 1992. On May 18, 1993, and July 6, 1993, the Tennessee Department of Environment and Conservation submitted to EPA Stage II vapor recovery rules that became effective by the State on June 21, 1993. The Tennessee regulation meets EPA requirements as discussed below. Additional information is located in the Technical Support Document (TSD) which is available for review in the EPA Region 4 office.

The provisions of section 182(b)(3) of the CAA include a requirement for owners or operators of gasoline dispensing systems to install and operate Stage II vapor recovery equipment at their facilities. The CAA specifies that the state regulation must apply to any facility that dispenses more that 10,000 gallons of gasoline per month or, in the case of an ISBM, any facility that dispenses more than 50,000 gallons of gasoline per month. The definition of an ISBM is included in the TSD and may also be found in section 324 of the CAA. The State has adopted a general applicability requirement of 10,000 and has provided an applicability requirement of 50,000 for ISBM's. The State definition of ISBM is consistent with the definition in the CAA.

Regulation 7, Section 7–13, Gasoline Dispensing Facility, Stage I and Stage II

On November 5, 1992, the Metropolitan Health Department of Davidson County through the TDEC submitted to the EPA Stage II vapor recovery rules that became State effective on September 15, 1992. The Stage I portion of the regulation was unchanged. This regulation, which is applicable for the Davidson County area, is more stringent than the State regulation in that the Stage II portion of this regulation does not provide separate applicability requirements for ISBM's. The TDEC has provided the Metropolitan Health Department with a certificate of exemption from enforcement of the State rule. As a consequence, the Davidson County area will not be subject to the State rule, but rather will be subject to enforcement from the rule submitted by the Metropolitan Health Department.

Regulation 7, Section 7–1, Definitions

Paragraph 11, the definition of volatile organic compounds (VOC), was amended for clarity.

Regulation 7, Section 7–25, Record Keeping and Recording Requirements

Subsection (b) was amended to add a general three year record retention requirement.

Final Action

EPA is approving the aforementioned amendments to the Tennessee SIP because they meet all requirements of the CAA. This action is being published without prior proposal because the Agency 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 April 10, 1995 unless, by March 13, 1995, 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 April 10, 1995.

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.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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 non-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 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).