Tennessee Division of Air Pollution Control, 701 Broadway, Customs House, 4th Floor, Nashville, Tennessee 37247– 1531.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/ 347–3555, x4197. Reference file TN– 139–1–6667a.

### SUPPLEMENTARY INFORMATION:

# A. Nonattainment NSR Requirements of the Amended Act

The air quality planning requirements for nonattainment NSR are set out in part D of title I of the CAA. EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those state submittals containing nonattainment area NSR ŠIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in this document and the supporting rationale. A brief discussion of the specific elements required in a state's NSR program also is included in section II.B. of this document.

EPA is currently developing rule revisions to implement the changes under the 1990 Clean Air Act Amendments in the NSR provisions of parts C and D of title I of the CAA. EPA anticipates that the proposed rule will be published for public comment in the spring of 1995. If EPA has not taken final action on states' NSR submittals by that time, EPA may generally refer to the proposed rule as the most authoritative guidance available regarding the approvability of the submittals. EPA expects to take final action to promulgate the rule revisions to implement the part C and D changes in early 1996. Upon promulgation of those revised regulations, EPA will review NSR SIPs to determine whether additional SIP revisions are necessary to satisfy the requirements of the rulemaking.

Prior to EPA approval of the State's NSR SIP submission, the State may continue permitting only in accordance with the new statutory requirements for permit applications completed after the relevant SIP submittal date. This policy was explained in transition guidance memoranda from John Seitz dated March 11, 1991, and September 3, 1992.

As explained in the March 11, 1991, memorandum, EPA does not believe Congress intended to mandate the more stringent title I NSR requirements during the time provided for SIP development. States were thus allowed to continue to issue permits consistent with requirements in their current NSR SIPs during that period, or to apply 40 CFR part 51, appendix S for newly designated areas that did not previously have NSR SIP requirements.

The September 3, 1992, memorandum addressed the situation where states did not submit the part D NSR SIP revisions by the applicable statutory deadline. For permit applications complete by the SIP submittal deadline, states may issue final permits under the prior NSR rules, assuming certain conditions in the September 3, 1992, memorandum are met. However, for applications completed after the SIP submittal deadline, EPA will consider the source to be in compliance with the CAA where the source obtains, from the state, a permit that is consistent with the substantive new NSR part D provisions in the CAA. EPA believes this guidance continues to apply to permitting pending final action on Tennessee's NSR SIP submittal.

For O<sub>3</sub> nonattainment areas, section 182(a)(2)(C) of the CAA requires the states to submit to EPA by November 15, 1992, new or augmented NSR rules that meet the provisions of part D of title I of the CAA. The part D NSR permitting provisions applicable in O<sub>3</sub> nonattainment areas are generally in sections 172(c)(5), 173, 182, and 184 of the CAA. The State of Tennessee adopted regulatory revisions necessary to bring the State's NSR regulations in compliance with the CAA and amended Federal regulations, and submitted those revisions on August 17, 1994. The State also submitted revisions to the Nashville/Davidson County portion of the Tennessee SIP on September 27, 1994. The only rule revisions being approved in this action are the revised statewide rules submitted on August 17, 1994. The EPA will take action on the Nashville/Davidson County rule revisions in a separate Federal Register document.

### **B. Federal Implementation Plan (FIP)** Clock

On January 15, 1993, in a letter from Patrick M. Tobin to Governor Ned McWherter, EPA notified the State of Tennessee that EPA had made a finding of failure to submit required programs for the nonattainment area. The revised State NSR rules satisfy those requirements for this area. Therefore, the sanctions clock was stopped by the complete submittal and the FIP clock will be stopped at the time of this approval.

#### **C. Procedural Background**

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565).

The State of Tennessee held a public hearing on February 22, 1994, on the proposed revisions to the SIP. Following the public hearing, the plan was adopted by the State and submitted by the Tennessee Department of Environment and Conservation on August 17, 1994, as a revision to the SIP.

Specifically, the State submitted revisions to its NSR permitting regulations in Tennessee's Chapter 1200–3 by submitting revised Paragraph 1200–3–9-.01(5) entitled Growth Policy. The revisions to the State's NSR regulations were made to bring the State's rules into compliance with the CAA, as amended in 1990, and Federal regulations.

The SIP revision was reviewed by EPA to determine completeness, and a letter of completeness, dated August 18, 1994, was forwarded to the State of Tennessee. EPA finds that the revisions provide for consistency with the CAA and corresponding Federal regulations, and that the revisions meet the new nonattainment NSR provisions for ozone nonattainment areas.

## D. Nonattainment NSR Requirements of the CAA

The general statutory requirements for nonattainment NSR SIPs and permitting as amended by the 1990 Amendments are found in sections 172 and 173 of the CAA. Tennessee currently has nonattainment areas for O<sub>3</sub>, sulfur dioxide, and lead. These requirements apply in all nonattainment areas. The State of Tennessee's nonattainment NSR regulations, which had been approved prior to the 1990 Amendments, were written to be nonattainment areaspecific. The NSR permitting requirements applied to new or modified sources proposing to locate in any nonattainment area in the State, including those designated pursuant to enactment of the 1990 Amendments. Thus, in order to meet the nonattainment NSR program submittal requirements, the State needed to address the new NSR requirements of the amended CAA.

Many of the revisions to sections 172 and 173 of the CAA as discussed in the General Preamble clarified previously existing Federal regulations and policy.