

entities. Small entities include small businesses, small not-for-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 Clean Air Act 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(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 5, 1996. 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, Particulate matter.

Dated: April 19, 1996.

Valdas V. Adamkus,
Regional Administrator.

For the reasons stated in the preamble, 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. 7401-7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(109) On July 17, 1995, Ohio submitted a Particulate Matter (PM) contingency measures State Implementation Plan (SIP) revision request. The submittal includes Final Findings and Orders for 5 companies. The Findings and Orders provide PM emission reductions which will take effect if an area fails to attain the National Ambient Air Quality Standards for PM.

(i) Incorporation by reference.

Director's Final Findings and Orders for Ford Motor Company (Cleveland Casting Plant), T&B Foundry Company, International Mill Service, Luria Brothers, and United Ready Mix, issued by the Ohio Environmental Protection Agency on July 10, 1995.

[FR Doc. 96-11200 Filed 5-3-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[UT18-1-6778a; FRL-5468-8]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Emission Statement Regulation, Ozone Nonattainment Area Designation, Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor of Utah on November 12, 1993, for the purpose of implementing an emission statement program for stationary sources within the Salt Lake and Davis Counties (SLDC) ozone nonattainment area. The emission statement inventory regulation, Utah Air Conservation Regulation (UACR) R307-1-3.5.4., was submitted by the State to satisfy the Clean Air Act (CAA), as amended in 1990, requirements for an emission statement program to be part of the SIP for Utah. EPA's approval will serve to make the emission statement inventory regulation federally enforceable. In addition, EPA is approving other minor changes involving definitions in UACR R307-1-1. and the ozone nonattainment area designation definition in UACR R307-1-3.3.3.

EFFECTIVE DATE: This final rule will be effective July 5, 1996, unless adverse comments are received in writing on or before June 5, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Richard R. Long,

Director, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, Telephone number: (303) 312-6479.

SUPPLEMENTARY INFORMATION: Section 110(a)(2)(H)(i) of the CAA provides the State the opportunity to update its SIP as needed or to address new statutory requirements. The State is utilizing this authority of the CAA to include its emission statement inventory regulation as part of the SIP, to revise the ozone nonattainment area designation definition, and perform minor definition changes.

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the CAA. EPA previously published a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the CAA (refer to 57 FR 13498, dated April 16, 1992, "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule", 57 FR 18070, dated April 28, 1992, "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental; Proposed Rule", and 57 FR 55620, dated November 25, 1992, "Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"). EPA also issued guidance describing the requirements for emission statement programs, as discussed in this action, entitled "Guidance on the Implementation of an Emission Statement Program", dated July, 1992.

Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) describes requirements applicable to Marginal nonattainment areas. These requirements are also made applicable to all other ozone nonattainment area

classifications through subsections (b), (c), (d), and (e) of section 182. Among the requirements in section 182(a) is a program, described in paragraph (3) of that subsection, for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x). Section 182(a)(3) required States to submit to EPA, by November 15, 1992, a revision to their SIP establishing an emission statement program.

EPA's document "Guidance on the Implementation of an Emission Statement Program", dated July, 1992, provided that whatever minimum reporting level is established in a State emission statement program, if either VOC or NO_x is emitted at or above the designated level, the other pollutant must be included in the emission statement even if it is emitted at levels below the specified cutoffs.

Section 182(a)(3)(B)(ii) allows States to waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_x or VOC emissions in nonattainment areas if: (1.) the class or category is included in the base year and periodic inventories, and (2.) emissions are calculated using emission factors established by EPA (such as those found in EPA's publication AP-42) or other methods acceptable to EPA.

The emission statement data must include: certification of data accuracy; source identification information; operating schedule; emissions information (to include annual and typical ozone season day emissions); control equipment information; and process data. EPA developed the emission statements data elements so as to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

In addition to the submission of the emission statement data to AIRS, States must provide EPA with a status report that outlines the degree of compliance with the emissions statement program. States must report quarterly to EPA the total number of sources affected by the State's emission statement provisions, the number that have complied with the provisions, and the number that have not. This status report must also include the total annual and typical ozone season day emissions from all reporting sources, both corrected and non-corrected for rule-effectiveness (RE). States must include in their status report a list of sources that are

delinquent in submitting their emission statement and that emit 500 tpy or more of VOC or 2500 tpy or more of NO_x. This report must be submitted quarterly until all the regulated sources have complied for the reporting year. The suggested submittal dates for the quarterly status reports are July 1, October 1, January 1, and April 1.

II. Analysis of Utah's Emission Statement Regulation

EPA is approving Utah's rule, UACR R307-1-3.5.4, "Emission Statement Inventory", that was submitted by the Governor to EPA on November 12, 1993. This rule provides the necessary requirements for an emission statement program for the State of Utah as stipulated in section 182(a)(3) of the CAA and in EPA's emission statement guidance document entitled "Guidance on the Implementation of an Emission Statement Program", dated July, 1992.

1. *Administrative.* The State of Utah held a public hearing on August 4, 1993, for its Emission Statement Inventory regulation. Following the public hearing, the Emission Statement Inventory regulation was adopted by the State with an effective date of November 15, 1993. This new regulation was submitted to EPA on November 12, 1993, as part of the Ozone Redesignation Request and Maintenance Plan SIP revisions. The State's emission statement inventory regulation was prepared to fulfill one of the requirements of Section 182(b), for Moderate ozone nonattainment areas, of the CAA.

The Ozone SIP revisions were reviewed by EPA to determine completeness, in accordance with the completeness criteria found in 40 CFR Part 51 (as amended by 57 FR 42216 on August 26, 1991). The initial November 12, 1993, submittal was found to be incomplete, and a letter dated January 19, 1994, was sent to the Governor indicating the administrative and technical deficiencies. The State of Utah sued EPA on March 18, 1994, regarding EPA's incompleteness finding (State of Utah v. EPA, Case No. 94-9520). As part of the lawsuit settlement, EPA agreed to allow the State to repackage its submittal and request parallel processing of the appropriate regulations and SIP revisions relating to the Ozone Redesignation Request for Salt Lake and Davis Counties. Therefore, on June 27, 1994, the State submitted: (1) a request for parallel processing of the Ozone Maintenance Plan and, (2) a reorganized Ozone Redesignation SIP revision and Maintenance Plan. Included in the reorganized Ozone Redesignation SIP revision and

Maintenance Plan was the Emission Statement Inventory regulation. On the basis of the State's June 27, 1994, submittal, EPA withdrew the January 19, 1994, finding of incompleteness in a letter to the Governor dated July 7, 1994. The July 7, 1994, letter deemed the State to have submitted a complete Ozone Redesignation Request, including a complete Emission Statement Inventory regulation submittal, as of November 12, 1993.

2. *Components of an Emission Statement Regulation:* There are several components of an acceptable emission statement regulation. Specifically, the State must submit an emission statement regulation as a revision to its SIP. The emission statement regulation must meet the minimum requirements for reporting by the sources and the State. The emission statement regulation must include provisions for applicability, definitions, compliance, and specific source requirements detailed below.

a. *Sources Covered.* Section 182(a)(3)(B) requires that States with areas designated as nonattainment for ozone require emission statement data from sources of volatile organic compounds (VOC) or oxides of nitrogen (NO_x) in the nonattainment areas. This requirement applies to all ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.) and is to be addressed through a SIP revision. This requirement is fulfilled by the State in UACR R307-1-3.5.4.A.

b. *Regulation Elements.* A State's emission statement regulation must include provisions covering applicability of the regulation, definitions for key terms used in the regulation, a compliance schedule for sources covered by the regulation, and the specific reporting requirements for sources. The emission statement submitted by the source should contain a certification that the information is accurate to the best knowledge of the individual certifying the statement, identification information (name, physical location, mailing address of the facility, latitude and longitude, and 4-digit Standard Industrial Classification (SIC) code(s)), operating schedule information (annual throughput, days per week on the normal operating schedule, hours per day during the normal operating schedule, and hours per year on the normal operating schedule), process rate data (annual process rate (annual throughput) and peak ozone season daily process rate), control equipment information (current primary and secondary control equipment identification codes and current combined control equipment

efficiency (%)), emissions information (estimated actual VOC and NO_x emissions at the segment level (in tons per year for an annual emission rate and pounds per day for a typical ozone season day), estimated emissions method code, calendar year for the emissions, and emission factor (if used)). The above requirements are fulfilled by the State in UACR R307-1-3.5.4.B., UACR R307-1-3.5.4.C., and UACR R307-1-3.5.4.D.

c. Reporting Requirements for Sources. Sources covered by Utah's Emission Statement Inventory regulation must submit the data elements described under Regulation Elements in section 2.b. above. The State addressed this requirement in UACR R307-1-3.5.4.

d. Reporting Requirements for State. States must: (1) provide to EPA the information for the sources covered by the emission statement regulation, (2) provide the value for rule effectiveness utilized by the State in its calculations, (3) submit quarterly emission statement status reports. The quarterly reports should show the total number of facilities that met the State's emission statement regulation requirements and the number of facilities that failed to meet the requirements. The above State reporting requirements were not initially addressed in the State's submittal. In a letter dated April 21, 1995, from Douglas Skie, Chief, Air Programs Branch, to Russell Roberts, Director, Utah Division of Air Quality, EPA requested the State to commit to providing the above information in quarterly status reports. The necessary format was provided in this letter. In a letter dated May 30, 1995, from Russell Roberts, Director, Utah Division of Air Quality to Douglas Skie, Chief, Air Programs Branch, the State committed to provide the requested information.

III. Nonattainment Area Designation and Other Minor Definition Changes

The State of Utah held a public hearing on September 1, 1993, for, among other items, the ozone "nonattainment area designation" definition change. Following the public hearing, the ozone "nonattainment area designation" definition change was adopted by the State with an effective date of November 13, 1993. UACR R307-1-3.3.3C was changed from "Ozone Nonattainment Areas" to "Ozone Nonattainment Areas and Davis and Salt Lake Counties". The other minor changes involved several definitions found in UACR R307-1-1., "Forward and Definitions". These other minor changes were administratively addressed in conjunction with the

Emission Statement Inventory regulation in the August 4, 1993, public hearing and also became effective on November 15, 1993.

IV. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA. Under section 110(a)(2)(E)(iii) of the Act the State must provide the necessary assurances that the State has the authority to implement the SIP. The State has such authority, for the implementation of the emission statement inventory regulation, UACR R307-1-3.5.4., revision of the ozone nonattainment area designation definition, UACR R307-1-3.3.3C, and other minor changes to definitions in UACR R307-1-1., as found in the Utah Air Conservation Act, Chapter 2, Sections 19-2-101, 19-2-104, and 19-2-109.

Final Action. EPA is approving the following revision to Utah's SIP as was submitted by the Governor on November 12, 1993: Emission Statement Inventory regulation, UACR R307-1-3.5.4, ozone nonattainment area designation definition, UACR R307-1-3.3.3C, and the following definitions in UACR R307-1-1.: "Control Apparatus", "Emissions Information", "Peak Ozone Season", "Process Level", and "Process Rate".

EPA is publishing this action 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, EPA is proposing to approve the SIP revisions should adverse comments be filed. This action will be effective July 5, 1996, unless, by June 5, 1996, adverse comments are received.

If EPA receives adverse 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. 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.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to any 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.

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 not-for-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 significant impact on any small entities. 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1996. Filing a petition for reconsideration by the Administrator for 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) of the CAA).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also

require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments to the Clean Air Act enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 1995.

Jack W. McGraw,

Acting Regional Administrator.

40 CFR part 52, Subpart TT, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(34) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(34) Revisions to the Utah State Implementation Plan for the Emission Statement Inventory regulation, UACR

R307-1-3.5.4., revision of the ozone nonattainment area designation definition, UACR R307-1-3.3.3C, and other minor changes to definitions in UACR R307-1-1. were submitted by the Governor in a letter dated November 12, 1993.

(i) Incorporation by reference.

(A) Emission Statement Inventory regulation, UACR R307-1-3.5.4, ozone nonattainment area designation definition, UACR R307-1-3.3.3C, and the following definitions in UACR R307-1-1.: "Control Apparatus", "Emissions Information", "Peak Ozone Season", "Process Level", and "Process Rate". All were adopted on August 4, 1993, and became effective on November 15, 1993.

(B) A letter dated May 30, 1995, from Russell Roberts, Director, Utah Division of Air Quality to Douglas Skie, Chief, Air Programs Branch for Region 8.

Editorial note: This document was received at the Office of the Federal Register May 1, 1996.

[FR Doc. 96-11198 Filed 5-3-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[CA 140-10-7261a; FRL-5456-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: the Placer County Air Pollution Control District (PCAPCD) and the Ventura County Air Pollution Control District (VCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from the storage and transfer of organic liquids and tank degassing operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality

standards, and plan requirements for nonattainment areas.

DATES: This action is effective on July 5, 1996 unless adverse or critical comments are received by June 5, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT:

Duane F. James, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1191, email: james.duane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: the PCAPCD's Rule 212, "Storage of Organic Liquids," and Rule 215, "Transfer of Gasoline into Tank Trucks, Trailers and Railroad Tank Cars at Loading Facilities," and the VCAPCD's Rule 74.26, "Crude Oil Storage Tank Degassing Operations," and Rule 74.27, "Gasoline and ROC Liquid Storage Tank Degassing Operations." These rules were submitted by the California Air Resources Board (ARB) to EPA on January 24, 1995 (Rules 215, 74.26, and 74.27) and October 13, 1995 (Rule 212).

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included portions of Placer County in the Sacramento Metro Area and the Ventura County Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that