inventories for the area will be based on whether they meet the requirements of section 110(a)(2)(A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 30, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–25894 Filed 10–9–96; 8:45 am]

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40 CFR Part 52

[UT–NHA–01; FRL–5629–1]

Approval and Promulgation of Air Quality Implementation Plans; Utah: Vehicle Inspection and Maintenance Program for Utah County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule.

SUMMARY: EPA is proposing interim approval of a State Implementation Plan (SIP) revision submitted by the State of Utah. This revision establishes and requires the implementation of an improved inspection and maintenance (I/M) program in the Provo-Orem Metropolitan Statistical Area (Utah County) which claims ''full credit'' for a test-and-repair network. The intended effect of this action is to propose interim approval of an I/M program proposed by the State, based upon the State/County's good faith estimate, which asserts that the State/County's network design credits are appropriate and the revision is otherwise in compliance with the Clean Air Act (CAA). This action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the CAA.

EPA proposes that the State/County's program must start no later than November 15, 1997. EPA also proposes that if the State/County fails to start its program as defined in this notice on this schedule, the approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the State.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed to Richard R. Long, Director, Air Programs, USEPA Region VIII (P2–A), 999 18th Street—Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Scott P. Lee, at (303) 312–6736 or via e-mail at lee.scott@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region VIII address above.

I. Background

A. Impact of the National Highway System Designation Act on the Design and Implementation of Inspection and Maintenance Programs Under the Clean Air Act

The National Highway System Designation Act of 1995 (NHSDA) establishes two key changes to the I/M rule requirements previously developed by EPA. Under the NHSDA, EPA cannot require states to adopt or implement centralized, test-only IM240 enhanced vehicle inspection and maintenance programs as a means of compliance with section 182, 184 or 187 of the CAA. Also under the NHSDA, EPA cannot disapprove a State SIP revision, nor apply an automatic discount to a State SIP revision under section 182, 184 or 187 of the CAA, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, the so-called ''50% credit discount'' that was established by the EPA's I/M Program Requirements Final Rule, (published November 5, 1992, and herein referred to as the I/M Rule) has been effectively replaced with a presumptive equivalency criteria, which places the emission reductions credits for decentralized networks on par with credit assumptions for centralized networks, based upon a state's good faith estimate of reductions as provided by the NHSDA and explained below in this section.

EPA's I/M Rule established many other criteria for states unrelated to network design or test type to use in designing I/M programs. All other elements of the I/M Rule, and the statutory requirements established in the CAA continue to be required of those states submitting I/M SIP revisions under the NHSDA, and the NHSDA specifically requires that these submittals must otherwise comply in all respects with the I/M Rule and the CAA.

The NHSDA also requires states to swiftly develop, submit, and begin implementation of these I/M programs, since the anticipated start-up dates developed under the CAA and EPA's rules have already been delayed. In requiring states to submit these plans within 120 days of the NHSDA passage, and in allowing these states to submit proposed regulations for this plan (which can be finalized and submitted to EPA during the interim period) it is clear that Congress intended for states to begin testing vehicles as soon as practicable, now that the decentralized credit issue has been clarified and directly addressed by the NHSDA.

Submission criteria described under the NHSDA allows for a State to submit proposed regulations for this interim program, provided that the State has all of the statutory authority necessary to carry out the program. Also, in proposing the interim credits for this program, states are required to make good faith estimates regarding the performance of their I/M program. Since these estimates are expected to be difficult to quantify, the state need only provide that the proposed credits claimed for the submission have a basis in fact. A good faith estimate of a State's program may be an estimate that is based on any of the following: the performance of any previous I/M program; the results of remote sensing or other roadside testing techniques; fleet and vehicle miles traveled (VMT) profiles; demographic studies; or other evidence which has relevance to the effectiveness or emissions reducing capabilities of an I/M program.

This action is being taken under the authority of both the NHSDA and section 110 of the CAA. Section 348 of the NHSDA expressly directs EPA to issue this interim approval. At that time, the Conference Report on section 348 of the NHSDA states that it is expected that the proposed credits claimed by the State in its submittal, and the emissions reductions demonstrated through the program data may not match exactly. Therefore, the Conference Report suggests that EPA use the program data to appropriately adjust these credits on a program basis as demonstrated by the program data.

B. Interim Approvals Under the NHSDA

The NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under this Act. This Act also directs EPA and the states to review the interim program results at the end of 18 months, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the state in its good faith effort to reflect the

emissions reductions actually measured by the state during the program evaluation period.

The NHSDA is clear that the interim approval shall last for only 18 months, and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes Congress intended for these programs to start up as soon as possible, which EPA believes should be on or before November 15, 1997, so that at least 6 months of operational program data can be collected to evaluate the interim program. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, Congress recognized and attempted to mitigate any further delay with the start-up of this program.

For the purposes of this program, ''start-up'' is defined as a fully operational program which has begun regular, mandatory inspections and repairs, using the final test strategy and covering each of a state's required areas. EPA proposes that if the State/Utah County fails to start its program on this schedule, the approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the State.

The program evaluation to be used by the State/Utah County during the 18 month interim period must be acceptable to EPA. EPA anticipates that such a program evaluation process will be developed by the Environmental Council of States (ECOS) group that is convening now and that was organized for this purpose. In addition to this interim evaluation, EPA further encourages the State/County to conduct a longer term, ongoing evaluation of its I/M program.

C. Process for Full Approvals of This Program Under the CAA

Per the NHSDA requirements, this interim rulemaking will expire 18 months after the final interim approval, or on the date of final full approval. A full approval of the State's final I/M SIP revision for Utah County (which will include the State/County's program evaluation and final adopted State/County regulations) is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews the State's submitted program evaluation, final rulemaking on the State's SIP revision will occur.

II. EPA's Analysis of Utah's Submittal

On March 15, 1996, Governor Michael O. Leavitt submitted a revision to its State Implementation Plan (SIP) for an I/M program for Utah County to qualify under the NHSDA. The revision consists of enabling legislation that allows Utah County to implement the I/M program, proposed State/County regulations, a description of the I/M program (including a modeling analysis and detailed description of program features), and a good faith estimate that includes the state's basis in fact for emission reductions claims for the program. The State/County's credit assumptions are based upon the removal of the 50% credit discount for all portions of the program that are based on a test-and-repair network, and the application of the State/County's estimate of the effectiveness of its decentralized test and repair program.

A. Analysis of the NHSDA Submittal Criteria

Transmittal Letter

On March 15, 1996, Utah submitted an I/M SIP revision to EPA, requesting action under the NHSDA of 1995 and the CAA of 1990. The official submittal was made by the appropriate state official, Governor Michael O. Leavitt, and was addressed to the appropriate EPA official in the Region.

Enabling Legislation

Utah's enabling legislation, as submitted, delegates authority for the implementation of a motor vehicle inspection and maintenance program in the Provo-Orem nonattaiment area to Utah County pursuant to Section 41–6–163.6, Utah Annotated Code, 1953, as amended.

Proposed Regulations

On March 6, 1996, the State of Utah proposed regulations in accordance with 40 CFR Part 51, establishing a revised I/M program following the Utah County Commission's adoption of the County's I/M Ordinance for public hearing on February 28, 1996. The State and County anticipate fully adopting regulations during the interim period.

Program Description

Utah County's program consists of a decentralized test-and-repair network requiring two-speed idle testing of all vehicles registered in Utah County, excluding construction equipment, farm vehicles and motorcycles; a technician training program; certified I/M repair stations; aggressive investigation of illegal registrations; recall of a statistically significant number of vehicles that were repaired to ensure repair effectiveness; tighter waiver requirements; and a remote sensing program. Additionally, Utah County has implemented a diesel I/M program which ensures all vehicles independent of fuel type are tested.

Emission Reduction Claim and Basis for the Claim

The State/County's emissions reduction claims are based on modeling performed using EPA's MOBILE5ah emission factor model, claiming ''full'' credit (no 50% discount) for a test-and-repair program. The State/County bases its claim of ''full credit'' on past performance as preliminarily demonstrated using the Analytical Protocol Assessment of the Credit Discount(s) to the Test-and-Repair I/M Programs in Salt Lake, Davis, and Utah Counties (Utah Protocol), dated June 26, 1995. This protocol was developed jointly by EPA, Utah Division of Air Quality, and County I/M program staff. Utah County claims 100% of the technician training credit modeled using the MOBILE5ah model, based on its technician training program, the certification of I/M repair facilities, and a repair effectiveness program.

B. Analysis of the EPA I/M Regulation and CAA Requirements

As previously stated, the NHSDA left those elements of the I/M Rule that do not pertain to the network design or test type intact. Based upon EPA's review of Utah County's submittal, EPA believes the State/County has complied with all aspects of the NHSDA as detailed above. Additionally, EPA believes the State/County has fulfilled the requirements of the CAA and the I/M Rule as follows:

Applicability—40 CFR Part 51.350

The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries. Utah County's I/M program, as authorized by Sections 41–6–163.6 thru 41–6–163.7 of Utah Code Unannotated, is to be implemented county-wide in Utah County, as described in Utah State Implementation Plan, Section X, Basic Automotive Inspection and Maintenance (I/M).

Basic I/M Performance Standard—40 CFR Part 51.352

The I/M program provided for in the SIP is required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met. As part of this SIP revision,

the State/County submitted a modeling demonstration using the EPA computer model, MOBILE 5ah, showing that the basic performance standard is exceeded for the affected Metropolitan Statistical Area (MSA).

Network Type—40 CFR Part 51.353

The SIP needs to include a description of the network to be employed, and the required legal authority. Utah has chosen to implement a decentralized, test-and-repair I/M program which is comprised of independently operated facilities. The Utah County I/M program allows fleet self-testing programs with oversight by County Health Department employees. Legal authority which is contained in Sections 41–6–163.6 thru 41–6–163.7, Utah Code Unannotated, authorizes the Counties to implement these programs.

Adequate Tools and Resources—40 CFR Part 51.354

The SIP needs to include a description of the resources that will be used for program operation, which include: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed in 40 CFR 51.354; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The SIP narrative and County Ordinance contained in the submittal describe the budget, staffing support, and equipment and resources dedicated to the program meeting the requirements of 40 CFR 51.354.

Test Frequency and Convenience—40 CFR Part 51.355

The SIP needs to describe the test schedule in detail, including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

The Utah I/M program requires annual inspections for all subject motor vehicles. For new vehicles, the first test is required for re-registration two years after initial registration. In addition, all motor vehicles registered as government-owned vehicles, diesel vehicles, and gasoline powered heavy-duty trucks are required to be certified annually.

Vehicle Coverage—40 CFR Part 51.356

The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area, but which may not be registered in the area. Also, the SIP needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

The County-run program's vehicle coverage includes all light-duty cars and trucks, and heavy-duty gasoline powered trucks, registered or required to be registered within the MSA and fleets primarily operated within the I/M program areas, including government-owned and operated vehicles. Vehicles are identified through the State of Utah's Tax Commission Division of Motor Vehicles (DMV) database.

Vehicles exempted from the program include: motorcycles, farm trucks, and diesel vehicles. The latter are required to be inspected in County-run diesel I/M lanes.

Test Procedures and Standards—40 CFR Part 51.357

The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance or law describing and establishing the test procedures.

Utah's I/M programs use EPA's Preconditioned two-speed idle test as specified in EPA-AA-TSA-I/M–90–3 March 1990, Technical Report, ''Recommended I/M Short Test Procedures for the 1990's: Six Alternatives.'' The UTAH91 Analyzer calibration specifications and emissions test procedures meet the minimum standard established in Appendix A of 40 CFR Part 51 Subpart S. Test procedures are established in the proposed Utah County I/M Ordinance as incorporated in the SIP.

Test Equipment—40 CFR Part 51.358

The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Utah I/M SIP commits to meeting the California BAR 90 accuracy standards at a minimum. The Utah SIP addresses the requirements in 40 CFR 51.358 and includes descriptions of performance features and functional characteristics of the UTAH91 computerized test systems. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

Quality Control—40 CFR Part 51.359

The SIP needs to include a description of quality control and record keeping procedures. The SIP also needs to include the procedures manual, rule, and ordinance or law describing and establishing the quality control procedures and requirements. The Utah I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with 40 CFR 51.359. These requirements will help ensure that equipment calibrations are properly performed and recorded, as well as maintaining compliance document security. Additional requirements are documented in the proposed Utah County I/M Ordinance, which is part of the SIP.

Waivers and Compliance Via Diagnostic Inspection—40 CFR Part 51.360

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions. The Utah I/M program commits to a waiver rate of 1 percent or less. Waiver procedures are incorporated into the SIP. Legal authority for waivers is delegated to the County in section 41–6–163 Utah Code Unannotated.

Motorist Compliance Enforcement—40 CFR Part 51.361

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program will be implemented, in part, by the Utah Tax Commission Division of Motor Vehicles (DMV), which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test or were granted a compliance waiver. State and local police agencies have the authority to cite motorists with expired registration tags.

Current compliance rates are estimated at greater than 97 percent in the County. The SIP commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 97 percent among subject vehicles.

Motorist Compliance Enforcement Program Oversight—40 CFR Part 51.362

The SIP needs to include a description of enforcement program oversight and information management activities. The SIP commits the State/County to periodically review the compliance rate of the Utah County I/M program to ensure the 97 percent commitment is being met. The DMV, Utah Division of Air Quality, Utah highway patrol, and County I/M program staff meet twice a month to ensure on-going high quality oversight of a joint motorist compliance program.

Quality Assurance—40 CFR Part 51.363

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Utah I/M SIP includes a description of its quality assurance program. The program includes operation and progress reports and overt and covert audits of emission inspectors and emission inspections. Overt and covert audits will be conducted by the County I/M staff. Remote inspector audits will be performed by the County I/M personnel. Procedures and techniques for overt and covert performance, record keeping, and equipment audits are given to auditors and updated as needed. Current auditor procedures are contained in the County Ordinance Appendices.

Enforcement Against Contractors, Stations and Inspectors—40 CFR Part 51.364

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment, as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In states without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

Utah County staff are responsible for enforcement actions against incompetent or dishonest stations and inspectors. The County I/M ordinance includes a penalty schedule. For repeat or serious offenses, auditors are authorized to immediately suspend the station or inspector by locking out the UTAH91 analyzer(s). A station permit may be suspended or revoked even if the owner/operator had no direct knowledge of the violation. In the case of incompetence, re-training is required before a permit is restored.

Data Analysis and Reporting—40 CFR Part 51.366

The SIP needs to describe the types of data to be collected. The Utah I/M SIP provides for the reporting of summary data based upon program activities taking place in the previous year. The report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Utah commits to address all of the data elements listed in 40 CFR 51.366.

Inspector Training and Licensing or Certification—40 CFR Part 51.367

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Utah I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training will include all elements required by 51.367(a) of the EPA I/M rule. All inspectors will be required to be certified to inspect vehicles in the Utah I/M program.

Improving Repair Effectiveness—40 CFR Part 51.369

The SIP needs to include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

The Utah SIP commits the program technical and supervisory staff to continue to work with both motor vehicle owners and the automotive service industry regarding vehicles failing to meet the exhaust emission levels. These direct contacts are normally either by telephone or person-to-person. Customers with vehicles that present unusual testing problems or situations will be referred to a County-run Technical Center for further testing and diagnostics.

III. Discussion for Rulemaking Action

Today's notice proposes interim approval of the Utah SIP revision for the Provo-Orem MSA motor vehicle I/M

program. If the State/County does not implement the interim program by November 15, 1997, EPA is proposing in this notice that the interim approval will convert to a disapproval after a finding letter is sent to the state.

A. Explanation of the Interim Approval

At the end of the 18 month interim period, the approval status for this program will automatically lapse pursuant to the NHSDA. It is expected that the state will at that time be able to make a demonstration of the program's effectiveness using an appropriate evaluation criteria. As EPA expects that these programs will have started no later than November 15, 1997, in order for the State/County to collect at least 6 months of program data that can be used for the demonstration. If the state fails to provide a demonstration of the program's effectiveness to EPA within 18 months of the final interim rulemaking, the interim approval will lapse, and EPA will be forced to disapprove the state's permanent I/M SIP revision. If the state's program evaluation demonstrates a lesser amount of emission reductions actually realized than were claimed in the state's previous submittal, EPA will adjust the state's credits accordingly, and use this information to act on the state's permanent I/M program.

B. Further Requirements for Permanent I/M SIP Approval

At the end of the 18 month period, final approval of the state's plan will be granted based upon the following criteria:

1. EPA's review of the State's program evaluation confirms that the appropriate amount of program credit was claimed by the State and achieved with the interim program,

2. Final State and County program regulations are submitted to EPA.

C. EPA's Evaluation of the Interim Submittal

EPA's review of this material indicates Utah has met the requirement of the NHSDA, the CAA and the I/M Rule. EPA is proposing interim approval of the Utah SIP revision for the Utah County I/M program, which was submitted on March 15, 1996. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

IV. Proposed Action

EPA is proposing interim approval of the SIP revision submitted by the State of Utah for the purpose of implementing an improved I/M program in Utah County. EPA has reviewed this revision to the Utah SIP and is proposing interim approval of the revision as submitted. The State's I/M program revisions for Utah County meet requirements pursuant to sections 182 and 187 of the Act and 40 CFR part 51, Subpart S and section 348 of the NHSDA for interim approval.

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 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.

V. Administrative Requirements

A. Executive Order 12866

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 Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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 economic 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 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 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 state action. The Act 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 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: September 19, 1996.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 96–25982 Filed 10–9–96; 8:45 am]

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