Dated: November 26, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

Part 52 of 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 *et seq.*

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(132) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(132) Revisions to the State Implementation Plan regarding the Low Emission Vehicle Program submitted by the Massachusetts Department of Environmental Protection on August 9 and August 26, 2002.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated August 9, 2002, in which it submitted the Low Emission Vehicle Program adopted on December 24, 1999.

(B) Letter from the Massachusetts Department of Environmental Protection dated August 26, 2002 which clarified the August 9, 2002 submittal to exclude certain sections of the Low Emission Vehicle Program from consideration.

(C) December 24, 1999 version of 310 CMR 7.40, the ''Low Emission Vehicle Program'' except for 310 CMR 7.40(2)(a)5, 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12).

3. In section 52.1167, Table 52.1167 is amended by adding new entries to existing state citations for 310 CMR 7.40 to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.40	Low Emission Vehicle Program.	12/24/99	12/23/02	[Insert FR citation from published date].	132	''Low Emission Vehicle Program'' (LEV II) except for 310 CMR 7.40(2)(a)5, 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12)
*	*	*	*	*	*	*

Notes.

1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.

2. The regulations effective statewide unless otherwise in comments or title section.

[FR Doc. 02–32129 Filed 12–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0047; FRL–7422–9]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Utah County PM_{10} State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of the State of Utah's revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor on July 3, 2002, revising the SIP for the Utah County nonattainment area for particulates of 10 microns in size or smaller (PM_{10}). The Governor's submittal, among other things, revises the existing attainment demonstration in the approved PM_{10} SIP based on a short-term emissions inventory, establishes 24-hour emission limits for the major stationary sources in the Utah County PM_{10} nonattainment area and establishes motor vehicle emission budgets based on EPA's most recent mobile source emissions model, Mobile6.

On September 10, 2002 EPA published a notice of proposed rulemaking (NPR) (67 FR 57357). EPA's comment period concluded on October 10, 2002. During this comment period, EPA received ten letters from various local governments within the Utah County area supporting EPA's approval of this SIP revision and two letters with specific comments regarding the approval of this action. The comments received and EPA's responses are addressed below.

In this final rule action, EPA approves the Governor's July 3, 2002 submittal adopting rule R307–110–10 which incorporates revisions to portions of Utah's SIP Section IX, Part A and rule R307–110–17 which incorporates revisions to portions of Utah's SIP Section IX, Part H. This action is being taken under sections 107, 110, and 189 of the Clean Air Act (Act).

EFFECTIVE DATE: This final rule is effective January 22, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 1301 Constitution Avenue, NW Room B108, Mail Code 6102T Washington D.C. 20460. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, EPA, Region VIII, (303) 312–6083.

SUPPLEMENTARY INFORMATION: On September 10, 2002 EPA published a

notice of proposed rulemaking (NPR) for approval of the Utah County PM_{10} SIP revision (67 FR 57357). In this final rule action, EPA summarizes all comments and EPA's responses and approves the Governor's July 3, 2002, final SIP revision. Throughout this document, wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency (EPA).

Table of Contents

I. Background Information

A. What Is the Purpose of This action?

We are approving the Governor of Utah's submittal of July 3, 2002 that requests our approval of the Utah County PM_{10} SIP revision that Utah adopted on June 5, 2002 and July 3, 2002 and that became State effective on September 5, 2002. With this SIP revision, Utah has revised Section IX (Section 9 under our current approved version of the Utah SIP), ''Control Measures for Area and Point Sources,'' Part A, ''Fine Particulate Matter'' and Part H, ''Emission Limits'' of the SIP. In addition, Utah revised its regulation R307–110–10 (R307–2–10 under our current approved version of the Utah SIP) to incorporate by reference its July 3, 2002 revision of the Utah County portion of the Utah SIP, Section IX, Part A. In addition, Utah revised its regulation R307–110–117 (R307–2–17 under our current approved version of the Utah SIP) to incorporate by reference its June 5, 2002 revision of the Utah County portion of the Utah SIP, Section IX, Part H. We are approving this request and its accompanying regulation revisions because the SIP revision meets the applicable requirements of the Act. For additional information on the Utah County PM_{10} SIP revision, please refer to our notice of proposed rulemaking (67 FR 57357).

B. What Changes to the SIP Is EPA Approving?

1. Transportation Conformity Requirements

This SIP revision establishes motor vehicle emission budgets and includes an analysis of those budgets. Under EPA's regulations at 40 CFR part 93, the Metropolitan Planning Organization (MPO) is required to determine conformity of transportation plans and projects to the motor vehicle emission budgets as approved in the PM_{10} SIP. The MPO in Utah County is the Mountainland Association of Governments (MAG).

Utah County has been in a conformity lapse since August 2000 because transportation plans for the area could not meet the PM_{10} and NO_X motor vehicle emission budgets that were derived from the emissions inventory in the approved PM_{10} SIP.[1] Utah County could not meet the established motor vehicle emission budgets because the budgets were based on an outdated mobile source emissions model (Mobile4)[2] and the area exceeded its growth projections.

This SIP revision establishes new motor vehicle emission budgets for PM_{10} and NO_X which are based on the latest planning assumptions, including the latest growth projections, and the latest emissions model (Mobile6), released on January 29, 2002 (67 FR 4254). The new motor vehicle emission budgets are established for years 2003, 2010, and 2020 and take into account growth in all other source categories. Please refer to Table 1: Transportation Conformity Motor Vehicle Emission Budgets.

TABLE I.—TRANSPORTATION CONFORMITY MOTOR VEHICLE EMISSION BUDGETS

Year	Primary PM (tons/day)	NO_X (tons/day)
2003	6.57	20.35
2010	7.74	12.75
2020	10.34	5.12

The values for 2003 reflect the inventory values for motor vehicles that were used in the CMB modeling. The CMB modeling, based on these inventory values, and inventory values for other source categories, demonstrates attainment in 2003. For 2010 and 2020, inventory values for all source categories were projected forward. The 2010 and 2020 motor vehicle emissions budgets reflect the motor vehicle inventory values in 2010 and 2020, except that ''road dust'' and ''brake wear'' portions of the 2020 motor vehicle inventory for PM_{10} were expanded by 7 percent to take advantage of part of the available safety margin in that year. Per 40 CFR 93.101, the safety margin is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment or maintenance. The applicable standard for PM_{10} is 150 $\mu g/m^3$; even using the expanded 2020 motor vehicle emissions budget for PM_{10} reflected in the table above, the CMB projections for 2020 show a maximum concentration of 146.4 $\mu g/m^3$, still below the 150 $\mu g/m^3$ standard.

The emissions budgets must be used for conformity determinations per 40 CFR 93.118. Specifically, the 2003 budgets will apply for years 2003 through 2009, the 2010 budgets will apply for years 2010 through 2019, and the 2020 budgets will apply for years 2020 and beyond. In addition, upon the effective date of this final approval of the motor vehicle emission budgets and upon the Federal Highway Administration's approval of a positive conformity determination, the present conformity lapse in Utah County will end.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* vs. *The Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the court decision, we are making most submitted SIP revisions containing a control strategy plan available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make the motor vehicle emission budgets in SIP revisions available for comment by posting notification of their availability

[1] EPA approved the PM_{10} SIP on July 8, 1994 (59 FR 35036).

[2] Sections 40 CFR 93.110 and 93.111 require areas to use the latest planning assumptions and the latest emissions model for conformity determinations.

on our Web site (currently, these notifications are posted at *www.epa.gov/oms/transp/conform/adequacy.htm).* The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor entitled ''Conformity Guidance on Implementation on March 2, 1999 Conformity Court Decision,'' also available on our Web site at: *www.epa.gov/oms/transp/traqconf.htm.*

Because they extend beyond the timeframe of the previously approved Utah County PM_{10} SIP, we reviewed the 2010 and 2020 motor vehicle emission budgets in this plan for adequacy using the criteria located at 40 CFR 93.118(e). The 2003 motor vehicle emission budgets replace the previously approved 2003 budgets in the Utah County $PM7_{10}$ SIP revision and can't be used for purposes of demonstrating conformity until the effective date approving this Utah County PM_{10} SIP revision. The 2010 and 2020 motor vehicle emission budgets were posted to our Web site at: *http://www.epa.gov/oms/transp/conform/adequacy.htm* and were made available for public comment from August 1, 2002 through August 30, 2002. No comments were received. The 2010 and 2020 motor vehicle emission budgets were found to be adequate, effective October 16, 2002. The Utah Department of Transportation and the Federal Highway Administration must use these budgets in future conformity analyses.

2. Updated Emissions Inventory and Attainment Demonstration

The emissions inventory for the Utah County PM_{10} nonattainment area covers emissions from all sources of both primary and secondary PM_{10} inside Provo and Orem. The SIP revision uses a 1988 and 1989 base year emissions inventory, as well as a 2003 projected emissions inventory for all sources in the inventory domain. The 1988/89 base year inventory was updated for purposes of this SIP revision to create a 24-hour inventory in order to be protective of the 24-hour PM_{10} National Ambient Air Quality Standards (NAAQS). The 1994 approved version of the PM_{10} SIP includes an emissions inventory based on monthly and annual PM_{10} values. The 2003 projected emissions inventory, which also contains 24-hour values, has been updated to reflect stationary source shut-downs and other changes affecting PM_{10}, NO_X, and SO_2 emissions that have occurred since the development of the original PM_{10} SIP. The mobile source portion of both the base year and projected inventories were updated to include the use of the new Mobile6 emissions model.

Utah updated the existing attainment demonstration from the original PM_{10} SIP to again create an analysis based on 24-hour averages instead of annual values. Utah used the existing chemical mass balance (CMB) methodology for the 24-hour attainment demonstration. The CMB analysis was also updated to account for changes that have occurred since the development of the original PM_{10} SIP. One such change to the attainment demonstration is that Utah increased the wood burning control strategy effectiveness to 90%, meaning that additional reductions in woodburning emissions are calculated into the attainment demonstration. In addition, since the development of the original PM_{10} SIP, some sources in the Utah County nonattainment area have banked emissions. Although these emissions are banked, the potential exists for the purchase and use of part or all of such banked emissions. Because of this, Utah has accounted for these banked emissions in the attainment demonstration by assessing the emissions to the source from which they came.

Utah's revised attainment demonstration for Utah County projects attainment for 2002 and 2003 for SIP purposes, and for 2010 and 2020 for conformity purposes only. In this revised SIP, the CMB analysis is based on 1988 and 1989 recorded monitoring data, which is the same data used in the original SIP. Table II below shows the results of the CMB analysis on the projected attainment years using only the highest concentration site for each year. Please refer to the Utah County SIP revision and technical support document (TSD) for more detailed information. Utah used three monitoring sites to demonstrate attainment on numerous high concentration days, although a demonstration of attainment is only required for the design day. In the table below, we only present results from the established design day (this is the same design day as in the original SIP revision).

TABLE II.—UTAH COUNTY PM_{10} CMB ANALYSIS RESULTS IN $\mu G/M^3$ AT HIGHEST CONCENTRATION MONITOR

Sources	2002 (Lindon)	2003 (Lindon)	2010 (North Provo)	2020 (North Provo)
Geneva Steel	51.5	51.5	38.7	38.7
Point Sources*	23.5	23.5	18.5	18.5
Mobile Sources	46.5	45.8	56.1	55.4
Area Sources	17.4	17.7	16.8	19.1
Total Concentration	138.9	138.4	130.0	131.7

*All point sources in Provo and Orem, excluding Geneva Steel. Includes secondary sulfates and nitrates.

In the original SIP as well as in this SIP revision, Utah uses three monitoring sites to demonstrate attainment: Lindon, North Provo and West Orem. The West Orem monitoring site has been shut down since December 31, 1997.

3. Establishment of Enforceable Short-Term Emission Limits for Major Stationary Sources

The original Utah County PM_{10} SIP includes the entire permit (circa 1988—1991) for most of the stationary sources in Provo and Orem. We only require that the major stationary sources of PM_{10} and its precursors have specific limits in SIPs. For these majors sources, it is important to include their appropriate emission limits and the enforceable provisions for those limits, but it's usually not essential to include their entire permit. Because Utah County is designated nonattainment for the 24-hour PM_{10} NAAQS, the SIP limits must include short-term limits with an averaging time of 24 hours or less. To determine which sources should be treated as major sources for purposes of the PM_{10} SIP, threshold limits were chosen of 100 tons per year of primary PM_{10} emissions, 200 tons per year of NO_X emissions, and 250 tons per year of SO_2 emissions. UDAQ's and EPA's analysis of the sources in Provo and Orem showed that sources above these levels account for a high

percentage of stationary source emissions in the area. The five sources with explicit emission limits in the Utah County PM_{10} SIP revision are, Geneva Steel, Geneva Nitrogen, Inc., Provo City Power, Springville City Corporation and Geneva Rock Product's Asphalt Plant Baghouse Stack. Table III below shows the emission limits established through this SIP revision for the major sources, except Geneva Steel.

TABLE III.—EMISSION LIMITS FOR STATIONARY SOURCES IN TONS/DAY

Sources	Primary PM_{10}	NO_X	SO_2
Geneva Nitrogen, Inc.—Montecantini Acid Plant Vent	.....	0.389	.....
Geneva Nitrogen, Inc.—Weatherly Acid Plant Vent	.....	0.233	.....
Geneva Nitrogen, Inc.—Prill Tower	0.24	.....	.....
Geneva Rock Products Asphalt Plant Baghouse Stack	0.103	0.568	0.484
Provo City Power	.....	2.45	.....
Springville City Corporation	.....	1.68	.....

Table IV below provides the 24-hour emission limits for the major emitting units at Geneva Steel for September through May, and Table V below provides the 24-hour emission limits for the major emitting units at Geneva Steel for June through August. Table VI below provides the annual emission limits for Geneva Steel's major emitting units.

TABLE IV.—EMISSION LIMITS FOR GENEVA STEEL IN TONS/DAY (SEPTEMBER–MAY)

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant*	0.1	.....	0.0
Sinter Plant**	.....	.....	.....
Blast Furnace	1.3	.....	.....
Q–BOP	0.5	.....	.....
Geneva Other***	1.2	.....	.....
Secondary Sulfate	.....	.....	1.0
Secondary Nitrate	.....	7.7	.....

* All NO_X emissions from coke plant ovens have been banked. Emissions of NO_X associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
** All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.
*** The ''Geneva Other'' category includes the power house, rolling mill and fugitive emissions.

TABLE V.—EMISSION LIMITS FOR GENEVA STEEL IN TONS/DAY (JUNE–AUGUST)

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant*	0.1	.....	0.0
Sinter Plant**	.....	.....	.....
Blast Furnace	1.3	.....	.....
Q–BOP	0.5	.....	.....
Geneva Other	1.4	.....	.....
Secondary Sulfate	.....	.....	3.4
Secondary Nitrate	.....	9.6	.....

* All NO_X emissions from coke plant ovens have been banked. Emissions of NOX associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
** All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.

TABLE VI.—ANNUAL EMISSION LIMITS FOR GENEVA STEEL IN TONS/YEAR

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant*	29.6	.....	0.0
Sinter Plant**	.....	.....	.....
Blast Furnace	454.4	.....	.....
Q–BOP	178.2	.....	.....
Geneva Other	448.1	.....	.....
Secondary Sulfate	.....	.....	560.2
Secondary Nitrate	.....	2971.8	.....

* All NO_X emissions from coke plant ovens have been banked. Emissions of NO_X associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
** All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.

It is important to note here that Geneva Steel is in the process of banking or has banked a significant amount of its emissions from the coke plant, sinter plant, Q–and sources in the ''Geneva Other'' category. This is due to the shutting down or reduction in emissions for the coke plant (some fugitive emissions remain from the coke piles), sinter plant, foundry and rolling mill scarfer facility. Emissions reductions are also due to fuel

switching. Table VII below shows the banked emissions per process in tons per year of PM_{10}, NO_X, and SO_2. Where Tables IV, V and VI reflect that all process emissions have been banked, no emissions from such process will occur under the SIP revision.

TABLE VII.—BANKED EMISSIONS FOR GENEVA STEEL IN TONS/YEAR

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant	461.8	557.2	454.9
Sinter Plant	101.0	705.2	434.2
Q–BOP	27.2		
Geneva Other	51.0		
Total	641	1262.4	889.1

4. Director's Discretion Provisions

The original EPA-approved PM_{10} SIPs for Utah County and Salt Lake County contain provisions that some would argue allow the Executive Secretary of the State of Utah to make changes effective to the SIP without first obtaining EPA approval. We believe these ''director's discretion'' provisions are contrary to the CAA and should not have been approved into the SIP. At the very least, these provisions have led to uncertainty regarding the content of the federally enforceable SIP. In order to address these concerns, Utah has inserted the following language into the SIP: ''Notwithstanding any other provision in the Utah SIP, no change to this SIP revision shall be effective to change the federal enforceability of the emission limits or other requirements of the Utah County PM_{10} SIP without EPA approval of such change as a SIP revision.'' This language makes clear that Utah may not unilaterally change the limits and requirements of the federally enforceable SIP, and thatUtah's changes to elements of the SIP will not be federally effective without EPA's approval. As explained further below, Utah has also committed to work with us in order to permanently resolve the director's discretion issues in the Salt Lake County and Utah County PM_{10} SIPs.

C. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This public process must occur prior to the State submitting its final revision to us.

At the March 13, 2002 Utah Air Quality Board (UAQB) meeting, the UAQB proposed for public comment revisions to R307–110–10, SIP Section IX.A, R307–110–17, and SIP Section IX.H.1. The UAQB proposed the SIP revision for a 30-day State public comment period that began on April 1, 2002. However, due to problems with copies of the amendment to the Utah County PM_{10} Plan, the State made revised copies available beginning April 4, 2002 and extended the public comment period to May 4, 2002. The State conducted public hearings on April 23 and 24, 2002. Final action and approval was taken by the UAQB on June 5, 2002 and July 3, 2002 and rule R307–110–10 incorporating revised Section IX.A, and rule R307–110–17 incorporating revised Section IX.H.1, into Utah's SIP became State effective on September 5, 2002.

On July 3, 2002, the Governor submitted final rule R307–110–10, SIP Section IX.A, R307–110–17, and SIP Section IX.H.1 to us for approval into the Utah SIP. In a letter dated August 15, 2002, from Robert E. Roberts, EPA Region Administrator for Region VIII, to Governor Leavitt of Utah, we determined that the Governor's July 3, 2002, SIP submittal met the completeness criteria in 40 CFR part 51, Appendix V, and therefore the submittal was considered administratively and technically complete.

II. UDAQ's Commitment for Future SIP Revisions

With an April 18, 2002 letter from Richard Sprott, Director of Utah's Division of Air Quality to Richard Long, Director of the Air and Radiation Program in EPA Region 8, UDAQ committed to work with us to address remaining issues with the PM_{10} SIPs for both the Utah and Salt Lake County nonattainment areas and with the Utah SIP generally. Utah will address these ongoing issues in a SIP revision (which may be in the form of a maintenance plan) that will be submitted by March 1, 2004. Utah has committed to address the following issues with the existing SIP:

(1) State authority as it relates to the discretion granted to the Executive Secretary of the Utah Air Quality Board (EPA uses the term ''director's discretion'' for these provisions);

(2) Variance provisions as provided in Utah law, Air Quality regulations and the SIP;

(3) UAM–AERO based modeling and analysis to address pollutants of concern in the SIP or maintenance plan;

(4) Stationary source modeling for major sources and appropriate non-major sources to determine predicted impacts of emission limits established in the SIP or maintenance plan;

(5) Enforceable emission limits for sources in the SIP or maintenance plan, including enforceable 24-hour emission limits for major sources in both Salt Lake and Utah Counties and emission limits (or surrogates for emission limits) for refinery process flaring and SRU maintenance downtime;

(6) Emissions inventory and modeling analysis for the nonattainment areas in Salt Lake and Utah Counties;

(7) New source review, emissions banking, and interpollutant trading (EPA's issues with these programs were explained in a May 10, 2001 letter from Region 8 to UDAQ);

(8) Unavoidable breakdown rules and consistency with the EPA September 20, 1999 policy regarding such breakdowns;

(9) Inclusion of annual growth rates in the SIP or maintenance plans;

(10) Justification for credits and growth rates for wood and coal burning in Utah County;

(11) Backhalf emissions measuring for PM_{10} emissions limit stack testing;

(12) General language clean up in the PM_{10} SIP to assure SIP is consistent and reads appropriately;

(13) Diesel I/M revision or program withdrawal;

(14) Emission budgets for PM_{10} and NO_X in Salt Lake portion of PM_{10} SIP;

(15) Emission inventory and modeling analysis for automobile emission inspection and maintenance program changes, if any such changes are made in the SIP or maintenance plan.

The above issues aren't addressed in this SIP revision for Utah County and therefore, these issues will continue after our final approval of this SIP revision.

III. Summary of Public Comments and EPA's Responses

A number of the comments we received are more properly directed to the State of Utah. For instance, several comments complained that the State adopted additional controls for stationary sources in this SIP revision. Others complained that the State should've changed parts of the existing SIP that we have previously approved. We note that EPA's role in reviewing and acting on SIP revisions is limited. We take SIP revisions as they are submitted to us by a state. We must approve a SIP revision if it meets the applicable requirements of the Clean Air Act; we must disapprove it if it does not meet these requirements. We may not change the provisions that a state has adopted. As we describe in greater detail below, we do not view the negative comments we received as a basis to disapprove the SIP revision. We believe the SIP revision meets the applicable requirements of the CAA, and we are approving it.

(1) Comment: One commenter suggests that the correct way to address a conformity problem is through mobile source control measures rather than revision to the entire SIP. Another commenter states that throughout the SIP revision process, not enough effort was made to control mobile source emissions which are the real source of the conformity problem.

Response: The commenters' policy concerns are more properly directed to the State. The State has exercised its discretion in adopting changes to the SIP and allocating any burden of those changes among various source categories. Our role is limited; we must either approve or disapprove the changes the State has submitted depending on whether those changes meet the applicable requirements of the Clean Air Act. We are not authorized to disapprove the SIP based on the State's decision to allocate some or all of the control burden to stationary sources. We have evaluated the State's SIP revision; because it meets applicable requirements of the CAA, including the requirement to demonstrate attainment, we are approving it.

(2) Comment: One commenter states that EPA encouraged a revision to the entire SIP rather than focus on mobile source emissions because EPA suggested it would not approve the conformity demonstration/SIP revision without satisfactory changes to stationary source portions of the SIP. The commenter suggests we took this ''indirect approach'' because the CAA clearly does not authorize the agency to make a SIP call under the circumstances.

Response: This commenter's concerns do not present a basis for us to disapprove the SIP revision. Please see our response to the previous comment. As a point of clarification, we note that the State chose to revise the SIP to address the conformity lapse in Utah County. While the State was developing the SIP revision, we identified a number of concerns with the existing Utah County PM_{10} SIP, some of which related to stationary source provisions. Consistent with our obligations under the Clean Air Act, we advised the State of changes we thought necessary to ensure that the SIP revision would meet applicable Clean Air Act requirements. Whether we had authority to issue a SIP call is not a question that is before us today. We'd also like to clarify that EPA does not approve conformity demonstrations; instead, the Department of Transportation has the authority for such decisions.

(3) Comment: One commenter, despite reservations, asks that EPA approve the SIP revision as soon as possible.

Response: We acknowledge the supportive comment. We disagree with the commenter's suggestion that the revision is not legally or technically justified; even if the commenter is correct that the SIP revision is more stringent than minimally necessary to meet the Clean Air Act's requirements, this would not form a basis for us to disapprove the SIP. If a SIP revision meets the minimum requirements of the Clean Air Act, we are bound to approve it, even if it exceeds the minimum requirements. *See Union Electric Co.* v. *Environmental Protection Agency,* 427 U.S. 246, 263–264 (1976).

(4) Comment: One commenter believes the Utah Division of Air Quality (DAQ) and Mountainland Association of Governments (MAG) have demonstrated conformity with the PM_{10} SIP and that EPA should approve the SIP revision as soon as possible so as not to stand in the way of Utah County receiving its federal highway funds.

Response: We are approving the SIP, including the new budgets. Upon the effective date of this action, the new budgets will apply for purposes of determining conformity. It will then be up to the metropolitan planning organization (MAG) and the Department of Transportation to determine conformity with the new budgets.

(5) Comment: One commenter believes that when the problem being addressed is growing mobile source emissions, it is bad policy to do anything other than address mobile source emissions exclusively. According to the commenter, EPA and DAQ should not use a conformity lapse situation as justification for demanding changes to the stationary source portion of the SIP. This sets a bad precedent.

Response: The commenter's policy concerns are more properly directed to the State. The State has considerable latitude to determine the best way to address a conformity lapse. In revising the SIP to remedy such a lapse, the State has discretion to choose which sources to regulate and to what degree, so long as the SIP demonstrates attainment and meets other requirements of the CAA. Put another way, it is not our place to dictate where the State should find emissions reductions if emissions reductions are needed. Instead, our concern is that any SIP revision submitted by the State meet the requirements of the CAA and our regulations; to the extent we offered input to the State during the State's development of the Utah County PM_{10} SIP revision, our input was intended to help the State adopt a SIP that would meet these criteria. Also, our conformity regulation at 40 CFR 93.118(e)(4)(iv) indicates that emissions from all source categories must be considered when we determine whether motor vehicle budgets are consistent with attainment of the NAAQS. In determining adequacy or approvability of motor vehicle emissions budgets we cannot look at mobile sources in isolation.

(6) Comment: One commenter asserts that the Utah PM_{10} SIP should be further revised during the maintenance plan process to allow for plant modifications without requiring SIP revisions. The commenter expresses his opinions regarding the way in which the permit and SIP process should interact to allow source flexibility.

Response: The issues raised by the commenter are not relevant to the submission made by the State and thus do not affect our approval of it.

(7) Comment: One commenter suggests that any commitments or comments contained in an April 18, 2002 letter from DAQ to EPA regarding future SIP revisions are independent from this SIP revision and should not affect its approval.

Response: While we noted the April 18, 2002 letter in our notice of proposed rulemaking, we proposed to approve the Utah County SIP revision. We are

approving the SIP revision with this rulemaking and the budgets contained in the SIP revision must be used for conformity determinations once our rulemaking is effective. We will address the commitments contained in the April 18, 2002, letter in future rulemaking.

(8) Comment: We received numerous comments asking that we approve the SIP revision.

Response: We acknowledge the supportive comments.

(9) Comment: One commenter submitted a copy of the comments it submitted to the State during its hearing process. The commenter indicates that the comments raise some ''fundamental policy issues concerning the approach taken both by EPA and DAQ with regard to proposed SIP revisions,'' and asks that EPA consider the comments during its deliberations on the Utah County PM_{10} SIP revisions.

Response: The commenter has not specified whether it is seeking EPA disapproval of the Utah County SIP revisions. However, for purposes of responding, we will assume that the commenter believes the SIP revisions should be disapproved. The following are summaries of comments submitted by this commenter and our responses.

(10) Comment: The commenter complains that State changes to the proposed SIP revision were made without ample opportunity for comment by affected businesses. The commenter asks that all future changes allow stationary sources to provide input to the decision making process.

Response: The commenter does not specify the changes that the State made to the proposed SIP revision; thus, we lack sufficient information to evaluate the commenter's complaint. We are not aware of changes the State made to the proposed SIP revision that would require a restart of the public participation process. Information submitted by the State indicates that the State conducted public hearings on the SIP revisions on April 23 and 24, 2002 and provided published notice of the hearings on March 23 and April 9, 2002. The State also provided a 30-day period for public comment and met with various stakeholders, including industrial sources, during the development of the SIP revisions. Section 110(a)(2) of the CAA requires states to adopt SIPs after reasonable notice and public hearing. We believe the State met these requirements.

(11) Comment: The commenter seems to be asserting that we are holding or have held approval of the Utah County SIP revisions hostage until the State addresses our concerns. The commenter cites a case titled *Snowbird Corporation* v. *U.S. Department of Agriculture* for the proposition that such behavior is illegal.

Response: We provided input to the State while the State developed revisions to the Utah County SIP revision and identified issues we felt the State would need to address in order for us to approve a revision to the SIP. The issues we raised were based on our interpretation of requirements of the Clean Air Act, and we believe our actions were completely within our authority under the Clean Air Act. If the State disagreed with our interpretations, it was free to disregard our input, submit a SIP revision, and exercise its legal rights under the Clean Air Act in the event we disapproved the submitted revision. There is no entitlement to approval of a SIP revision under the Clean Air Act unless the revision meets the requirements of the CAA and EPA regulations. Since receiving the SIP submittal from the State, we have acted expeditiously to propose it for approval and approve it. We have not held the SIP revision ''hostage.''

(12) Comment: The commenter indicates that increases in mobile source emissions should not be used to justify reductions in allowable emission limits currently applicable to stationary sources. The commenter wants reasonably stringent budgets for mobile sources and wants mobile sources to stay within budget. The commenter wants any reductions in the inventory from use of MOBILE 6 modeling to be allocated to stationary sources.

Response: These decisions are within the State's discretion in the first instance, and EPA may not consider these comments in determining whether the SIP revision meets the requirements of the CAA. See our response to previous comments. Also, *see Union Electric Co.* v. *Environmental Protection Agency,* 427 U.S. 246, 266 (1976), in which the Supreme Court held that a state ''may select whatever mix of control devices it desires'' as long as the NAAQS are met.

(13) Comment: The commenter argues that the SIP revision contains emissions caps that will preclude plant production increases and growth. The commenter was concerned that these emissions caps may only be changed through an EPA-approved SIP revision. According to the commenter, such an approach is unrealistic and unworkable because the revision and approval process can take as long as 5 to 10 years. The commenter expressed concern that this will result in functionally prohibiting industrial and business expansion. The commenter suggests a countywide cap be implemented that allows emissions trading under the cap.

Response: The commenter's concerns are more properly directed to the State because they raise issues with the State's chosen approach, not matters that are within the scope of EPA's approval or disapproval of this action. EPA's decision to approve the revision is limited to whether it complies with the applicable requirements of the CAA. We believe that the emissions limits meet the requirements of the Clean Air Act because they are practically enforceable and will ensure attainment of the NAAQS. The fact that the limits may only be changed through a SIP revision is not a basis for us to disapprove the SIP revision. In addition, we believe the commenter's assumptions are unfounded in certain respects. First, it is our understanding that many of the allowable limits in the SIP allow for considerable growth in emissions. (Whether such increases would trigger new source review requirements is a separate question.) Second, we have a responsibility under the Clean Air Act to ensure that emissions limits that form the basis for an attainment demonstration are enforceable and permanent. Permanent in this instance means that they may not be changed without EPA's approval through a SIP revision. See section 110(i) of the Act and 40 CFR 51.105. Third, this approach has proven workable throughout Region 8. Industrial and business expansion has continued, despite firm emissions limits in SIPs.

(14) Comment: The commenter is concerned that language in the Utah SIP that relates to New Source Review negates one of the stated goals of the SIP revision—to remove smaller sources from the SIP and thus allow those smaller sources to change their Approval Orders without EPA review. The commenter mentions language stating that diffusion modeling will be performed to predict the source's effect on air quality in the area, and requiring issuance of an Approval Order. The commenter is concerned that this language could be interpreted to require EPA approval of changes to Approval Orders as SIP revisions.

Response: The commenter's concerns are more properly directed to the State, rather than to EPA. The State did not adopt the changes the commenter requested and has not submitted changes to Section 2 of the Utah SIP. The absence of such changes does not render the Utah County PM_{10} SIP revision inadequate, and we are approving the SIP revision as submitted. However, we believe the commenter's

fears are unfounded. Requirements for New Source Review are intended to complement the SIP; see our response to comment 18, below. But, there is no requirement in the State's regulations or in our regulations that the State seek or gain prior EPA approval of changes to Approval Orders. This does not mean a state is free to ignore state or federal regulatory requirements in implementing its New Source Review requirements; if a state fails to implement those requirements, we may take a variety of actions under the Clean Air Act to correct the state's failure.

(15) Comment: The commenter questions the addition of Geneva Rock asphalt plant to the SIP ''when it is not in the same category as the large stationary sources.'' The commenter also wonders why Geneva Rock has no annual emission limitations like other sources in the SIP.

Response: We asked the State to include Geneva Rock in the SIP because Geneva Rock's allowables (*i.e.*, permitted levels) for PM_{10} exceed 100 tons per year. This is the threshold for PM_{10} that the State and EPA settled on to define which sources to include in the SIP. We note that the inclusion in the SIP of emission limits for Geneva Rock is not a basis for us to disapprove the SIP revision. We don't know why the State did not include annual emission limits in the SIP for Geneva Rock. However, given Geneva Rock's size and the daily limits that apply November through February, we don't believe the lack of annual emission limits for this one source threatens the annual PM_{10} NAAQS.

(16) Comment: The commenter suggests that other states, such as California and Texas, allow changes in equipment and/or facility modifications that do not require a SIP revision and asks the State to evaluate these approaches.

Response: The commenter directed this comment to the State, but the State did not elect to adopt the suggested approach. Because the State has not submitted such mechanisms as part of this SIP revision, the comment is not relevant to our approval. The absence of such mechanisms does not form a basis for us to disapprove the SIP revision.

(17) Comment: The commenter says that the provision in the SIP that requires offsets for emissions increases greater than 25 tons has never been adequately justified or considered and that it should be removed from the SIP.

Response: The commenter directed this comment to the State, but the State did not elect to modify this provision of the SIP. The continued presence of this offset provision in the SIP does not render the submitted SIP revision inadequate or form a basis for us to disapprove the SIP revision.

(18) Comment: The commenter indicates that for many companies regulated under the pre-existing Utah County PM_{10} SIP, details such as hours of operation and specific emission limitations have been added to their Approval Orders solely for the purpose of having the Approval Orders be consistent with the SIP. Now that the revised SIP no longer contains such limitations for many sources, the commenter argues that the Approval Orders for those sources should be revised to eliminate such limitations as well.

Response: This comment does not pertain to the validity of the SIP revision itself. However, we do not believe it would be appropriate for the State to engage in wholesale changes to existing Approval Orders. The idea behind taking specific emissions limitations out of the SIP for some sources was to provide the type of flexibility the commenter is seeking—namely to make source changes without the need for a SIP revision. However, removal of these specific SIP provisions does not mean that such sources would be exempt from emissions limitations entirely, or that changes to their Approval Orders would be made without complying with the permitting requirements in the Utah SIP. Those permitting requirements, which EPA has approved and which are intended to meet the requirements of 40 CFR 51.160 through 51.166, are designed to ensure that permit changes are carefully evaluated for possible impacts on the relevant SIPs and on attainment and maintenance of the NAAQS. Neither the State nor sources can assume that removal of emissions limitations and other requirements from the Utah County SIP justifies their removal from Approval Orders.

(19) Comment: The commenter suggests that EPA Method 5 should be added as an alternative to Method 201a for compliance testing, at a source's option. According to the commenter, the Executive Secretary should have the discretion to change other details specified in Section 1.a.A without having to go through a full SIP revision, because this is a relatively minor aspect of the SIP.

Response: The commenter's concern is directed at the State. We note that the SIP permits the use of EPA Method 5 under certain circumstances, depending on the characteristics of the gas stream in the stack. Beyond that, it is not within our authority to change the SIP that has been submitted to us. The lack of source or Executive Secretary discretion to change the test method is not a basis for disapproval of the submitted SIP. The inclusion of the discretion requested by the commenter *would* be a basis for disapproval. We note that the State has committed to address some issues we have with compliance testing in a future SIP revision, but these issues do not relate to the commenter's comment.

(20) Comment: The commenter wonders whether incorporating the definitions of R307–101–2 into section 1.a.E of the SIP will limit DAQ's ability to modify its definitions without EPA approval of a SIP revision.

Response: The requirement for EPA approval of changes to an element of the SIP is not a flaw in the submitted SIP, and we are approving the SIP as submitted. Our approval means that State changes to the SIP revision, including incorporated definitions, will not be federally effective until we approve them. This is because the Clean Air Act and our regulations provide that no changes to an applicable implementation plan are effective unless and until they are approved by us as a SIP revision. See section 110(i) of the CAA and 40 CFR 51.105.

(21) Comment: The commenter indicates that the opacity measurement requirement of section 1.a.G of the SIP is more stringent than the federal Method 9 and that Method 9 opacity observations without modification should be used instead.

Response: This comment was addressed to the State. The State did not adopt the change the commenter suggested. The State's adoption of a standard that is more stringent than applicable federal requirements is not a basis for disapproval.

(22) Comment: The commenter states that section 1.a.H of the SIP should state that facilities with a required site-specific fugitive dust control plan are exempted from the requirements of this section.

Response: The State did not adopt the change the commenter suggested. We believe the provision is adequate as written and are approving this provision of the SIP.

IV. EPA's Final Action

In this action EPA is finalizing approval of the State of Utah's revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor on July 3, 2002, revising the SIP for the Utah County nonattainment area for particulates of 10 microns in size or smaller (PM_{10}). The Governor's submittal contains rule R307–110–10 which incorporates revisions to portions

of Utah's SIP Section IX, Part A and rule R307–110–17 which incorporates revisions to portions of Utah's SIP Section IX, Part H. The Governor's submittal, among other things, revises the existing attainment demonstration in the approved PM_{10} SIP based on a short-term emissions inventory, establishes 24-hour emission limits for the major stationary sources in the Utah County PM_{10} nonattainment area and establishes motor vehicle emission budgets based on EPA's most recent mobile source emissions model, Mobile6.

We note that Section IX, Part H of the SIP revision indicates that definitions contained in rule R307–101–2 apply to Section IX, Part H. Rule R307–101–2 is a recodification of rule R307–1–1. We have approved R307–1–1 into the SIP but not R307–101–2. For purposes of this action only, we have reviewed R307–101–2. We find that the definitions in R307–101–2 are generally the same as those contained in R307–1–1 and that they are acceptable as they apply to Section IX, Part H of the SIP revision. Therefore, we are listing under the additional materials section of this rulemaking (section C(54)(ii)(E) below) rule R307–101–2 as in effect at the time Utah adopted the revisions to Section IX, Part H of the SIP and are placing a copy of the rule in the docket for this action. We will evaluate rule R307–101–2 as it applies to the Utah SIP generally in a future rulemaking action.

This final action will become effective on January 22, 2003.

V. Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

(b) Executive Order 13045

Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not economically significant and EPA does not have the discretion to engage in a risk assessment or alternatives analysis in acting on SIP revisions.

(c) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(d) Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This final approval will not have a significant impact on a substantial number of small entities because 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 SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Therefore, because the final rule does not create any new requirements, I certify that the final rule will not have a significant economic impact on a substantial number of small entities.

(g) 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 this final approval action 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(h) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective January 22, 2003.

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

(j) Petitions for Judicial Review

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 February 21, 2003. 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) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

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

Dated: December 12, 2002.

Robert E. Roberts,

Regional Administrator.

Title 40, chapter I, part 52 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 et seq.

Subpart TT—UTAH

2. Section 52.2320 is amended by adding paragraph (c)(54) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(54) On July 3, 2002, the Governor of Utah submitted a SIP revision revising the SIP for the Utah County nonattainment area for particulates of 10 microns in size or smaller (PM_{10}). The Governor's submittal, among other things, revises the existing attainment demonstration in the approved PM_{10} SIP based on a short-term emissions inventory, establishes 24-hour emission limits for the major stationary sources in the Utah County PM_{10} nonattainment area and establishes motor vehicle emission budgets based on EPA's most recent mobile source emissions model, Mobile6.

(i) Incorporation by reference.

(A) Rule R307–110–10, which incorporates revisions to portions of the Utah State Implementation Plan, Section IX, ''Control Measures for Area and Point Sources,'' Part A, ''Fine Particulate Matter'' as adopted on July 3, 2002, by the Utah Air Quality Board, and State effective on September 5, 2002. (Section IX of the Utah SIP was formerly designated Section 9. The revisions to Section IX, Part A we are incorporating by reference with this action do not replace Section 9, Part A entirely, but revise portions of Section 9.A.3., 9.A.6, 9.A.7, 9.A.8, 9.A.9 of the previously approved Utah SIP and add a new Section IX.A.10.)

(B) Rule R307–110–17, which incorporates revisions to portions of the Utah State Implementation Plan, Section IX, ''Control Measures for Area and Point Sources,'' Part H, ''Emission Limits,'' as adopted on June 5, 2002, by the Utah Air Quality, and State effective on September 5, 2002. (Section IX, Part H of the Utah SIP was formerly designated Section 9, Appendix A. The revisions to Section IX, Part H we are incorporating by reference with this action replace the following sections of Section 9, Appendix A of the previously approved Utah SIP: Section 1.1 (General Requirements (Utah County)) and all subsections thereof; Section 1.2 (Particulate Emission Limitations (company specific)) and all subsections thereof.)

(ii) Additional material.

(A) Letter dated August 9, 2002 from Richard Sprott, Director, Utah Division of Air Quality, to Richard Long, Director, Air and Radiation Program, EPA Region 8, transmitting the

chronology of how the Utah County PM_{10} SIP revision was adopted over two Utah Air Quality Board meetings (June 5, 2002 and July 3, 2002) and the justification for the nonsubstantive revisions made between the two adoption dates.

(B) Letter dated July 3, 2002 from Governor Michael O. Leavitt, State of Utah, to Robert E. Roberts, Regional Administrator, EPA Region 8, requesting EPA's approval of the Utah State Implementation Plan for PM_{10} in Utah County.

(C) Commitment letter dated April 18, 2002 from Richard Sprott, Director, Utah Division of Air Quality, to Richard Long, Director, Air and Radiation Program, EPA Region 8, committing to work with us to address remaining issues with the PM_{10} SIPs for both the Utah and Salt Lake County nonattainment areas and with the Utah SIP in general. Utah will address these ongoing issues in a SIP revision (which may be in the form of a maintenance plan) that will be submitted by March 1, 2004.

(D) Letter dated March 15, 2002 from, Richard Sprott, Director, Utah Division of Air Quality, to Richard Long, Director, Air and Radiation Program, EPA Region 8, accompanied by three volumes of Technical Support Documentation titled ''Supplement II–02 to the Technical Support Documentation for the State Implementation Plan for PM_{10}'' for the Utah County PM_{10} SIP revision.

(E) Utah's General Definition rule R307–101–2 as in effect at the time Utah adopted Section IX, Part H of the SIP revision on June 5, 2002.

(F) All portions of the July 3, 2002 Utah PM_{10} SIP revision submittal, other than any documents or provisions mentioned in paragraph (c)(54)(i) of this section.

[FR Doc. 02–32259 Filed 12–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3429, MB Docket No. 02–273, RM–10562]

Digital Television Broadcast Service; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of TV Alabama, Inc., substitutes DTV channel 5 for DTV channel 34c at Tuscaloosa, Alabama. *See* 67 FR 59490, September 23, 2002. DTV channel 5 can be allotted to Tuscaloosa in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates 33–28–48 N. and 87–25–50 W. with a power of 5.4, HAAT of 641 meters and with a DTV service population of 1431 thousand. With this action, this proceeding is terminated.

DATES: Effective February 3, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–273, adopted December 12, 2002, and released December 19, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Alabama, is amended by removing DTV channel 34c and adding DTV channel 5 at Tuscaloosa.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–32282 Filed 12–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3430, MB Docket No. 02–271, RM–10441]

Digital Television Broadcast Service; Belton, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Central Texas College, substitutes DTV channel 38 for DTV channel 47c at Belton, Texas. *See* 67 FR 59490, September 23, 2002. DTV channel 38 can be allotted to Belton, Texas, in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates 30–59–08 N. and 97–37–51 W. with a power of 200, HAAT of 392.9 meters and with a DTV service population of 735 thousand. With this action, this proceeding is terminated.

DATES: Effective February 3, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–271, adopted December 12, 2002, and released December 19, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV