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, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Today's determination does not create any new requirements, but allows suspension of the indicated requirements. Therefore, because the approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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

The USEPA's final action does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act, upon the State. No additional costs to State, local, or tribal governments, or to the private sector, result from this action, which suspends the indicated requirements. Thus, USEPA has determined that this final action does not include a 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.

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 August 14, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 14, 1995.

David A. Kee,

Acting Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1885 is amended by adding new paragraph (w) to read as follows:

§ 52.1885 Control Strategy: Ozone.

* * * * *

(w) Determination—USEPA is determining that, as of May 31, 1995, the Cleveland (which includes the Counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit); Toledo (which includes the Counties of Lucas and Wood); Dayton (which includes the Counties of Clark, Greene, Miami and Montgomery); and the Ohio portion of the Cincinnati-Hamilton Interstate (which includes the Counties of Butler, Clermont, Hamilton and Warren) ozone nonattainment areas have attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of Section 182(b)(1) and related requirements of Section 172(c)(9) of the Clean Air Act do not apply to the area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Cleveland, Toledo, Dayton or Cincinnati-Hamilton Interstate (ambient air monitoring data shall be reviewed for all monitors located in the interstate nonattainment area which includes the State of Kentucky Counties of Boone, Campbell, and Kenton) ozone nonattainment area(s), this determination(s) shall no longer apply.

[FR Doc. 95–15959 Filed 6–28–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[UT20–3–6773a; FRL–5212–4]

Approval and Promulgation of Air Quality Implementation Plans; Utah; 1990 Base Year Carbon Monoxide Emission Inventories for Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the 1990 base year carbon monoxide (CO) emission inventories for Ogden City, Salt Lake City, and Utah County (which includes Provo-Orem) that were submitted by the State to satisfy certain requirements of the Clean Air Act (CAA), as amended in 1990.

DATES: This final rule will be effective August 28, 1995, unless adverse or critical comments are received by July 31, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch (8ART–AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

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

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Programs Branch (8ART–AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 293–1814.

SUPPLEMENTARY INFORMATION: Section 110(a)(2)(H)(i) of the CAA provides the State the opportunity to update its State Implementation Plan (SIP) as needed or to address new statutory requirements. The State is utilizing this authority to include the Ogden City, Salt Lake City, and Utah County 1990 base year CO emission inventories as part of the SIP.

I. Background

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas toward attainment. The CAA (section 187(a)(1)) required CO nonattainment areas classified as moderate or serious to submit a 1990 base year CO inventory

that represents actual emissions, that occurred in the CO season, by November 15, 1992. This requirement applies to Ogden City and Utah County. In addition, moderate CO nonattainment areas with a design value of 12.7 ppm CO or more were required to submit a plan by November 15, 1992, that demonstrates attainment of the CO NAAQS by December 31, 1995. ''Not Classified'' CO nonattainment areas, such as Salt Lake City, were required to submit a 1990 base year emission inventory by November 15, 1993 (refer to the General Preamble to Title I of the CAA, 57 FR 13529, dated April 16, 1992, and 57 FR 18070, dated April 28, 1992).

To prepare the attainment demonstration for CO nonattainment areas classified as moderate or serious, a 1990 base year and projected modeling inventories are needed. The 1990 base year inventory is the primary inventory from which the periodic and modeling inventories are derived. Further information on these inventories and their purpose can be found in the document ''Emission Inventory Requirements for Carbon Monoxide State Implementation Plans,'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, dated March, 1991.

The air quality planning requirements for CO nonattainment areas are set out in sections 187(a)(1), (a)(5), (a)(7), and 187(d)(1) of Title I of the CAA. EPA previously issued a General Preamble describing EPA's preliminary views on how EPA intended to review SIP revisions submitted under Title I of the CAA, including requirements for the preparation of the 1990 base year inventory (refer to 57 FR 13529, dated April 16, 1992, and 57 FR 18070, dated April 28, 1992). Because EPA is describing its interpretations in this action only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this action and the supporting rationale.

Those States containing moderate and serious carbon monoxide nonattainment areas were required under Section 182(a)(1) of the CAA to submit by November 15, 1992, a comprehensive, accurate, and current inventory of actual CO season emissions from all sources for each nonattainment area (also, refer to 57 FR 13530, dated April 16, 1992). Classified'' CO nonattainment areas were required to submit their inventories by November 15, 1993 (refer to 57 FR 13535, dated April 16, 1992). Stationary point, stationary area, on-road mobile, and non-road mobile sources of carbon monoxide (CO) were to be included in each inventory. This inventory was for calendar year 1990 and was denoted as the base year inventory. The inventory was to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO air quality concentrations occur. For areas where winter is the peak CO season, as is the case for Ogden City, Salt Lake City, and Utah County, the 1990 base year inventory included the period December 1989 through February 1990. Available guidance for preparing emission inventories was provided in the General Preamble (refer to 57 FR 13498, dated April 16, 1992).

II. Analysis of the State's Submittal

Section 110(k) of the Act sets out provisions governing EPA's review of CO 1990 base year emission inventory submittals in order to determine approval or disapproval for the requirements of section 187(a)(1) and section 172(c) (also, refer to 57 FR 13565–66, April 16, 1992). EPA is approving the CO 1990 base year emission inventories for Ogden City, Salt Lake City, and Utah County, Utah as submitted to EPA in a letter July 11, 1994, based on EPA's Level I, II, and III review findings. The following describes the review procedures associated with determining the acceptability of a 1990 base year emission inventory and discusses the levels of acceptance or disapproval that can result from the findings of the review process.

A. Procedural Background

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA provides that each SIP revision (including emission inventories) be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA.[1] CO nonattainment areas with design values greater than 12.7 ppm were required to submit the entire SIP revision (1990 base year emissions inventory, attainment demonstration, and control strategies) by November 15, 1992 (i.e., Utah County). CO areas with design values of 12.7 ppm and below were required to submit a 1990 base year emissions inventory by November 15, 1992 (i.e., Ogden City). ''Not Classified'' CO nonattainment areas (i.e., Salt Lake City) were required to submit a 1990 base year emissions inventory by November 15, 1993 (refer to section 107(d)(1)(C) and section 172(c) of the CAA, 56 FR 56694, and the interpretation at 57 FR 13535).[2]

The State of Utah held a public hearing on May 5, 1994, for the entire CO SIP revision which also contained the 1990 base year emission inventories for Ogden City, Salt Lake City, and Utah County. The CO SIP revision (including the inventories) was adopted by the State on July 1, 1994, with an effective date of August 31, 1994. The Governor submitted the CO SIP revision, which included the 1990 base year inventories, to EPA in a letter dated July 11, 1994.

Utah's CO SIP revision was reviewed by EPA and found to be complete on July 15, 1994.

B. Review of Utah's Base Year SIP CO Inventories

EPA's Level I, II, and III review process checklists are used to determine if all components of a CO base year inventory are present and approvable. EPA's detailed Level I and II review procedures can be found in the following document; ''Quality Review Guidelines for 1990 Base Year Emission Inventories'', U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. The Level III review procedures are specified in a memorandum from David Mobley and G. T. Helms to the Regions ''1990 O_3/CO SIP Emission Inventory Level III Acceptance Criteria'', October 7, 1992[3] and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.[4] EPA's review also evaluates the level of supporting documentation provided by the State and assesses whether the emissions were developed, and data quality assured, according to current EPA guidance.

The Level III review process is outlined below and consists of nine requirements that a CO base year inventory must include. For a base year CO emission inventory to be acceptable

[1] Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I–X, ''Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas,'' September 29, 1992.

[2] Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[3] Memorandum from J. David Mobley, Chief, Emissions Inventory Branch, to Air Branch Chiefs, Region I–X, ''Final Emission Inventory Level III Acceptance Criteria,'' October 7, 1992.

[4] Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region I–X, ''Emission Inventory Issues,'' June 24, 1993.

it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) was provided and the Quality Assurance (QA) program contained in the IPP was performed and its implementation documented. Analysis: Utah's IPP was approved by EPA on April 2, 1992. The IPP's QA program requirements were addressed in Section 4. of the Ogden City inventory, in Section 4. of the Salt Lake City inventory, and in Section 4. of the Utah County inventory.

2. Adequate documentation was provided that enabled the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory. Analysis: This requirement was addressed in Sections 1. through 10. in each of the three CO inventories.

3. The point source inventory must be complete.

Analysis: This requirement was addressed in Section 7. of the Utah County inventory. There are no CO major point sources (equal to or greater than 100 tons per year of CO) located in the Ogden City or Salt Lake City CO nonattainment areas.

4. Point source emissions must have been prepared or calculated according to the current EPA guidance.

Analysis: This requirement was addressed in Section 7. of the Utah County inventory.

5. The area source inventory must be complete.

Analysis: This requirement was addressed in Section 5. of the Ogden City inventory, Section 5. of the Salt Lake City inventory, and Section 5. of the Utah County inventory.

6. The area source emissions must have been prepared or calculated according to the current EPA guidance.

Analysis: This requirement was addressed in Section 5. of the Ogden City inventory, Section 5. of the Salt Lake City inventory, and Section 5. of the Utah County inventory.

7. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates must follow EPA guidance, which is detailed in the document, ''Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources'', U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods were adequately described and documented in the inventory report.

Analysis: This requirement was addressed in Section 6.1 of the Ogden City inventory, Section 6.1 of the Salt Lake City inventory, and Section 6.1 of the Utah County inventory.

8. The MOBILE model (or EMFAC model for California only) was correctly used to produce emission factors for each of the vehicle classes.

Analysis: This requirement was addressed in Section 6.1 of the Ogden City inventory, Section 6.1 of the Salt Lake City inventory, and Section 6.1 of the Utah County inventory.

9. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

Analysis: This requirement was addressed in Sections 6.2.1, 6.2.2, and 6.2.3 of the Ogden City inventory, Sections 6.2.1, 6.2.2, and 6.2.3 of the Salt Lake City inventory, and Sections 6.2.1, 6.2.2, and 6.2.3 of the Utah County inventory.

Final Action

EPA is approving the carbon monoxide 1990 base year emission inventories for Ogden City, Utah State Implementation Plan, Section IX, Part C.3., Table IX.C.5; Salt Lake City, Utah State Implementation Plan, Section IX, Part C.3., Table IX.C.4; and Utah County, Utah State Implementation Plan, Section IX, Part C.6., Table IX.C.10. These inventories were submitted by the Governor in a letter dated July 11, 1994.

The 1990 base year CO emissions from point sources, area sources, on-road mobile sources, and non-road mobile sources for Ogden City, Salt Lake City, and Utah County are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS

[in Tons Per Day]

Non-attainment area	Point source emissions [1]	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Ogden City	None Identified	5.60	67.80	0.89	74.29
Salt Lake City	None Identified	13.98	228.78	7.86	250.62
Utah County	145.24	27.19	353.23	4.45	530.11

[1] Major CO point sources (i.e., CO emissions equal to or greater than 100 tons per year).

All supporting calculations and documentation for these three 1990 carbon monoxide base year inventories are contained in the Technical Support Document (TSD) for this action.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 28, 1995, unless, by July 31, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 28, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to any State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 28, 1995. 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 CAA).

SIP approvals under Section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

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

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 187(a)(1) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the inventories being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Approval of this specific revision to the SIP does not indicate EPA approval of the SIP in its entirety.

Executive Order 12866

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

List of Subjects in 40 CFR Part 52

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

Dated: May 17, 1995.

Robert L. Duprey,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(29) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(29) Revisions to the Utah State Implementation Plan for the 1990 Carbon Monoxide Base Year emission inventories for Ogden City, Salt Lake City, and Utah County were submitted by the Governor in a letter dated July 11, 1994.

(i) Incorporation by reference.

(A) Carbon Monoxide 1990 Base Year Emission Inventories for Ogden City, Utah SIP, Section IX, Part C.3., Table IX.C.5; Salt Lake City, Utah SIP, Section IX, Part C.3., Table IX.C.4; and Utah County, Utah SIP, Section IX, Part C.6., Table IX.C.10 all of which became effective on August 31, 1994.

[FR Doc. 95–16067 Filed 6–28–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[KY–074–1–6948; FRL–5223–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Commonwealth of Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a maintenance plan and a request to redesignate the Kentucky portion of the Ashland-Huntington nonattainment area from nonattainment to attainment for ozone (O_3) submitted on November 12, 1993, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet). The Kentucky portion of the moderate O_3 nonattainment area includes Boyd County and a portion of Greenup County. EPA is also approving the Commonwealth of Kentucky's 1990 baseline emissions inventory because it meets EPA's requirements regarding the approval on baseline emission inventories.

EFFECTIVE DATE: June 29, 1995.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4207. Reference file KY–074–1–6948.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were