sources does not prevent the construction of any wastewater treatment works for which a grant has been, or will be, awarded in compliance with the Act. It provides for the guarantee by the Administrator of full and timely payment of principal and interest on any obligation of the State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance the local share of the costs of any such project.

Inasmuch as this revocation action relates to agency management and in view of the subject matter, notice of proposed rule making and public comment were considered unnecessary.

III. Rulemaking Analysis

Regulatory Flexibility Act

The Agency has determined that the rule being issued today is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, which generally requires an agency to conduct a regulatory flexibility analysis unless it certifies that the rule will not have a significant economic impact on a substantial number of small entities. By its terms, the RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. Today's rule is not subject to notice and comment requirements under the APA or any other statute. Even if the Agency were required to perform a regulatory flexibility analysis, today's rule would not have a significant economic impact on small entities for the reasons stated in this preamble.

Executive Order 12866

Under Executive Order 12866, [58 Federal Register 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Unfunded Mandates Reform Act

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 39

Environmental protection, Loan programs-environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: November 27, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Chapter I, under the authority of the Federal Water Pollution Control Act Amendments of 1972 as amended, is amended as follows.

PART 39—[REMOVED]

1. Part 39 is removed.

[FR Doc. 96–30873 Filed 12–3–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 181–0024a; FRL–5649–8]

Approval and Promulgation of Implementation Plan for South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve South Coast Air Quality Management District (District) Rules 212, 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, 1310, and 1313 for the purpose of meeting requirements of the Clean Air Act, as amended in 1990 (CAA or Act) with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). This approval action will incorporate these rules into the federally approved State Implementation Plan (SIP) for California. The rules were submitted by the State to satisfy certain Federal requirements for an approvable NSR SIP. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on February 3, 1997 unless adverse or critical comments are received by January 3, 1997. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours at the following address: New Source Section (A–5–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the submitted rules are also available for inspection at the following locations:

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Gerardo C. Rios, (A–5–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1259.

SUPPLEMENTARY INFORMATION: The air quality planning requirements for nonattainment NSR are set out in part D of title I of the Clean Air Act. EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion. EPA has also proposed regulations to implement

the changes under the 1990 Amendments in the NSR provisions in parts C and D of title I of the Act. (See 61 FR 38249 (July 23, 1996)). Upon final promulgation of those regulations, EPA will review those NSR SIP submittals on which it has already taken final action to determine whether additional SIP revisions are necessary.

Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act provide that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of Section 110(a)(2).

The District held a public hearing on December 7, 1995 to accept public comment on Rules 212, 1301, 1302, 1309, 1309.1, 1310, and 1313. On December 7, 1995, the Rules were adopted by the District Board of Directors. The District also held a public hearing on May 10, 1996 to accept public comment on Rule 1303. On May 10, 1996, the rule was adopted by the District Board of Directors. Finally, on June 14, 1996 the District held a public hearing to accept public comment on Rules 1304 and 1306. On June 14, 1996, the rules were adopted by the District Board of Directors. On August 28, 1996, Rules 212, 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, 1310, and 1313 were submitted to EPA as a proposed revision to the California SIP.

EPA deemed the submittal complete on October 10, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V [1] and is being finalized for approval into the SIP.

Summary of Rule Contents

The South Coast Air Quality Management District submitted to EPA for adoption into the applicable NSR SIP Rule 212 and Regulation XIII, which is composed of Rules 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, 1310, and 1313. Regulation XIII and Rule 212 constitute the District's new source permitting rules. Rule 212 contains the District's administrative requirements including the public consultation process for permitting.

Rule 1301 is the general purpose and applicability rule. Rule 1302 consists of definitions of all terms relating to new sources and modifications to existing sources of air pollution, and the requirements of Regulation XIII. Rule 1303 contains substantive source permitting requirements including Lowest Achievable Emission Rate requirements, Best Available Control Technology requirements, offset requirements, statewide compliance requirements, Federal Land Manager Notification and Class I Area Visibility Protection requirements, and Alternative Source Siting Analysis requirements. Rule 1304 establishes the exemptions from Regulation XIII. Rule 1306 establishes the emission calculation procedures. Rule 1309 establishes procedures for the creation, banking, and use of emission reduction credits. Rule 1309.1 establishes the Priority Reserve which will provide credits for specific priority sources. Rule 1310, Analysis and Reporting, establishes a thirty day review for the District to issue completeness determinations for permit applications, and the requirement for public notification of proposed Emission Reduction Credits. Rule 1313, Permits to Operate, establishes procedures for issuing permits to operate for sources not required to obtain a permit to construct. Regulation XIII and Rule 212, therefore, contain the permitting requirements for sources located in nonattainment areas.

Rules 212, 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, 1310, and 1313 represent comprehensive revisions to the District's NSR permitting regulations. These rules are intended to replace Rules 212, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, and 1313, which were approved into the SIP by EPA on 2/3/89, 1/21/81, 1/21/81, 2/21/81, 3/12/86, 1/20/85, 1/21/81, 5/18/81, 1/21/81, 1/21/81, and 1/21/81, respectively. The District has adopted the current revisions to Regulation XIII and Rule 212 in part to meet the CAA and the November 15, 1992 deadline for submittal.

The District is composed of Los Angeles County, Orange County, Riverside County, and San Bernardino County. The Air Quality Management Area of the District is designated as an extreme ozone nonattainment area, while the rest of the District is designated as a severe ozone nonattainment area. The District is also designated nonattainment for PM10, NO2, and CO. For the detailed area designations that apply to the District, please refer to 40 CFR 81.305. The CAA air quality planning requirements for nonattainment NSR are set out in part D of Title I of the Act, with implementing regulations at 40 CFR 51.160 through 51.165. EPA has determined that the District's submittal satisfies these requirements.

District Rule 201, which prohibits construction of sources or modifications prior to permit issuance and compliance with the requirements of these rules, is integral to Regulation XIII. EPA is approving Regulation XIII based on the understanding that the District will continue to enforce Rule 201 in a manner consistent with the federal regulations prohibiting construction before permit issuance. The District has interpreted Rule 201 to prohibit such pre-permit construction in its interim Rule 201 interpretation dated September 19, 1994.

In addition, this approval is based on the understanding that the District will apply a tracking system which will continuously show in the aggregate that the District: (1) will provide for the necessary offsets required to meet the appropriate statutory offset ratio; and (2) will mitigate emissions from those sources exempted from offsets under Rule 1304 which are not exempt from federal regulation. However, offsets for sources exempt from offsets due to their switch from ozone depleting compounds (ODCs) to volatile organic compounds (VOCs) will be provided by the District through reductions achieved by the District's 1994 attainment plan which EPA has proposed to approve at FR 10920 [Vol.61, No. 53/Monday, March 18, 1996] [CA114–1–7280; FRL–5439–8]. Therefore, the District need not show in the tracking system mitigation in the aggregate for those particular sources. The District, however, has committed to track such reductions to avoid double counting reductions used to meet the offset ratio in the aggregate. If the District modifies the attainment plan so that it no longer provides offsets for sources switching emissions from ODCs to VOCs, then the District will have to show that those VOC emissions increases will be offset by the District through the tracking system as are all other emissions sources exempt under Rule 1304, or modify Rule 1304 to exclude exemptions for such sources.

EPA's approval is also based on the District's interpretation of Regulation XIII to require a net emissions increase calculation consistent with federal requirements for extreme ozone non-attainment areas in the non-SEDAB area, for severe ozone non-attainment areas in the SEDAB area, and for all other pollutants subject to regulation in all parts of the District.

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Lastly, as part of this approval, interpollutant trades proposed within District will be subject to EPA approval.

For a more detailed description of how the submitted Regulation XIII and Rule 212 meet the Act's applicable requirements, please refer to EPA's technical support document (TSD).

Action

EPA has evaluated Regulation XIII and Rule 212 and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, District Rules 212, 1301, 1302, 1303, 1304, 1306, 1309, 1309.1, and 1310 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), and part D of Title I of the Act.

Administrative Review

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

EPA is publishing this document without prior proposal in part because the District has provided public workshops in the development of the submitted rules, and provided the opportunity for public comment prior to adoption of the submitted rules. At that time, no significant comments were received by the District. The Agency therefore views this as a non-controversial 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 February 3, 1997, unless, unless by January 3, 1997, 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 February 3, 1997.

Regulatory Process

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

SIP approvals under section 110 and subchapter I, part D, of the 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 a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates and SBREFA

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 part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

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

Dated: October 29, 1996.

John Wise,

Acting Regional Administrator.

Subpart F of part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(240) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(240) New and amended regulations for the following APCD were submitted on August 28, 1996 by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 212, 1301, 1302, 1309, 1309.1, 1310, and 1313, adopted on December 7, 1995, Rule 1303, adopted

on May 10, 1996, and Rules 1304 and 1306, adopted on June 14, 1996.

* * * * *

[FR Doc. 96–30872 Filed 12–3–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[NE–012–1012a; FRL–5655–6]

Designation of Areas for Air Quality Planning Purposes; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document takes final action to correct a previous action published on November 6, 1991, that designated portions of Omaha, Nebraska, as nonattainment for the lead National Ambient Air Quality Standard (NAAQS) (see 56 FR 56694). Specifically, this action corrects a mistake made in designating the southern boundary of that nonattainment area.

DATES: This action is effective February 3, 1997 unless by January 3, 1997 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Josh Tapp, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Josh Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: On January 24, 1991, the state of Nebraska submitted a letter which contained a recommendation for the EPA to designate a portion of Omaha as nonattainment for the lead NAAQS. In the letter, the state recommended the boundaries based on existing monitoring data. The specific boundaries listed in Nebraska's January 1991 letter are: Fourth Street on the south, Eleventh Street on the west, Avenue H and the Nebraska-Iowa border on the north, and the Missouri River on the east.

On August 27, 1996, the state of Nebraska submitted a letter which notified the EPA that its request in 1991 was not fully accurate. The southern boundary was originally defined based on the fact that data recorded at the monitor located at Fourth Street and Jones Street showed attainment of the lead standard. However, in its 1991 request, Nebraska incorrectly requested that the southern boundary be designated as Fourth Street which actually runs north and south. The August 1996 letter requests that the EPA correct the error by designating the southern boundary as Jones Street which runs east and west. The state supplied a map which clearly delineates the relationship of Fourth Street and Jones Street to the nonattainment area to support its request.

Under section 110(k)(6) of the Clean Air Act (CAA), the EPA may revise a previous designation when it determines that the designation was in error. The EPA has determined that its identification of the southern boundary of the Omaha lead nonattainment area was in error for the reasons stated above.

I. Final Action

Pursuant to section 110(k)(6) of the Clean Air Act, this is a direct final action which redefines the southern boundary of the Omaha lead nonattainment area as Jones Street.

The 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective February 3, 1997 unless, by January 3, 1997, adverse or critical comments are received.

If the 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. The 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 is effective February 3, 1997.

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

II. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the 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 private sector, of $100 million or more. Under section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated 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 preexisting requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).