longer exist, and information possessed by the PHS, NIOSH, state cancer or tumor registries, state authorities, or the custodian of a federally supported health-related study do not contain information pertaining to the claimant's smoking history, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the claimant's smoking history or lack thereof and, if the affiant is the eligible surviving beneficiary, the basis for such knowledge. This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking.

10. In § 79.51, paragraph (j) is amended by revising paragraphs (j)(3) and (j)(4), adding paragraph (j)(5) and adding a sentence at the end of the concluding text to read as follows:

§ 79.51 Filing of claims.

* * * * *

(j) * * *

(3) Onsite participation in a nuclear test,

(4) Exposure to a defined minimum level or radiation in a uranium mine or mines during a designated time period, or

(5) The identity of the claimant and/or surviving beneficiary.

* * * Claims filed prior to the date of implementation of these amending regulations will not be included in determining the number of claims filed.

11. In § 79.55, paragraphs (d)(1)(i) and (d)(1)(ii) are revised to read as follows:

§ 79.55 Procedures for payment of claims.

* * * * *

(d) * * *

(1) * * *

(i) Any disability payments or compensation benefits paid to the claimant and his/her dependents while the claimant is alive; and

(ii) Any Dependency and Indemnity Compensation payments made to survivors due to death related to the illness for which the claim under the Act is submitted.

* * * * *

11. Appendix D to Part 79 is added to read as follows:

Appendix D to Part 79—HRCT Technique

Table A: Summary of HRCT Technique; Essential Scanner Settings

1. Collimation: Thinnest available collimation (1–1.5 mm).
2. Reconstruction algorithm: High-spatial frequency or ''sharp'' algorithm
3. Scan time: 1–2 seconds
4. kVp; mA; mAs: Routine settings for chest CT
5. Matrix size: Largest available (512×512).
6. Window level: −600 to −700 HU Window width: 1000 HU to 1500 HU
7. Photography: 12 on 1.
8. Field of view: As small as possible to incorporate both lungs (30–40 cm.)

Table B: Scanning Protocol and Procedure; HRCT Technique: Scan Protocol for Suspected Silicosis or Fibrotic Lung disease

Chest radiograph normal or minimally abnormal:

Full inspiration with prone and supine scans using 2–cm spacing from lung apices to bases.

Dated: May 16, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–13542 Filed 5–22–97; 8:45 am]

BILLING CODE 4410–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[UT15–1–6775, UT12–2–6728, UT16–1–6776; FRL–5829–6]

Proposed Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake and Davis Counties Ozone Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, Proposed Approval of Related Elements, Proposed Approval of Partial NO_X RACT Exemption, and Proposed Approval of Weber County I/M Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 19, 1997, the Governor of Utah submitted revisions to the Utah State Implementation Plan (SIP) that included a maintenance plan. He also submitted a request to redesignate the Salt Lake and Davis Counties (SLDC) moderate nonattainment area to attainment for the current 0.12 parts per million (ppm) ozone National Ambient Air Quality Standard (NAAQS). Included with this submittal were improved motor vehicle inspection and maintenance provisions for Salt Lake and Davis Counties. This February 19, 1997, submittal provided revised and updated emission inventory figures, revised contingency measure triggering mechanisms, updated air quality monitoring data, and other minor revisions to the maintenance plan. In this action, EPA is proposing to approve the SLDC redesignation request, maintenance plan, and other related SIP elements including the 1990 base year emissions inventory, Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC), NO_X RACT for Kennecott's Utah Power Plant and for the Pacificorp Gadsby Power Plant, and the Basic Inspection and Maintenance (I/M) and Improved I/M provisions for Salt Lake and Davis Counties. EPA is also proposing to approve a partial Nitrogen Oxides (NO_X) RACT exemption request and to give limited approval to the State's generic VOC RACT and generic NO_X RACT rules. Finally, EPA is proposing to approve the I/M provisions for Weber County, which are unrelated to the redesignation request for Salt Lake and Davis Counties.

DATES: To be considered, comments must be received by June 23, 1997.

ADDRESSES: Written comments on this action should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

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

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

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the CAA, EPA designated the SLDC area as nonattainment for ozone because the area had been designated as nonattainment before November 15, 1990. The SLDC area was classified as a moderate nonattainment area (see section 181 of the CAA for further information regarding classifications and attainment dates for ozone nonattainment areas).

Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of

a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Thus, before EPA can approve the redesignation request, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. EPA is proposing to approve several SIP elements, that are necessary to the redesignation, at the same time it approves the redesignation.

EPA has reviewed the State's redesignation request, maintenance plan, and related SIP elements and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). Descriptions of how the section 107(d)(3)(E) requirements are being addressed are provided below in the supplementary information section of this action.

Section 1. Brief Administrative History of the SLDC Ozone Redesignation Request, Maintenance Plan, and Related Submittals

On November 12, 1993, the Governor of Utah submitted a redesignation request and maintenance plan for the SLDC area along with revisions to the SIP for offset ratios for VOCs and NO_x, RACT for VOC_s and NO_x, New Source Review (NSR), Emission Statements, and Basic I/M. Following several intervening steps, including litigation by the State, EPA issued a letter dated July 29, 1994, that deemed the redesignation request, maintenance plan, and ozone SIP elements complete as of November 12, 1993.

The State submitted a number of updates and revisions to the maintenance plan and ozone SIP elements after November 12, 1993, in an effort to address several substantive concerns identified by EPA. The latest revisions to the maintenance plan were submitted on February 19, 1997, along with improved motor vehicle inspection and maintenance provisions for Salt Lake and Davis Counties. The maintenance plan references the various SIP elements that are pertinent to the redesignation. On May 2, 1997, the State submitted a request for a partial NO_x RACT exemption. With this partial NO_x RACT exemption request, the State has now addressed all of EPA's concerns.

Section 2. Redesignation Criterion: The Area Must Have Attained the Ozone NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR § 50.9, ''The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 part per million (235u/m^3) is equal to or less than 1, as determined by appendix H.'' Attainment of the ozone standard is not a momentary phenomenon based on short-term data. Rather, for an area to be considered attainment, each of the ozone ambient air quality monitors in the area are allowed to record three or fewer exceedances of the ozone standard over a continuous three-year period. 40 CFR § 50.9 and 40 CFR Part 50, Appendix H. If a single monitor in the ozone monitoring network records more than three expected exceedances of the standard over a three-year period as based on the expected exceedance calculation method in Appendix H, or as actual measured values, then the area is in violation of the ozone NAAQS. In addition, EPA's interpretation of the CAA and EPA national policy has been that an area seeking redesignation to attainment must not only show attainment of the ozone NAAQS for a continuous three-year period, but at least through the date that EPA promulgates the redesignation to attainment in the **Federal Register**.

Utah's ozone redesignation request is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. Most recent ambient air quality monitoring data for consecutive calendar years 1992 through 1996 show an expected exceedance rate of less than 1.0 per year, per monitor, of the ozone NAAQS in the SLDC nonattainment area. These data were collected and analyzed as required by EPA (see 40 CFR § 50.9 and 40 CFR Part 50, Appendix H) and have been archived by the State in EPA's Aerometric Information and Retrieval System (AIRS) national database. Further information on ozone monitoring is presented in section IX.D.2.c of the State's maintenance plan and in the State's TSD. Since 1992, exceedances of the 0.12 ppm ozone standard were measured at three separate monitors in 1995, and one exceedance was measured in 1996. EPA notes, however, that the SLDC area has not violated the ozone standard and continues to demonstrate attainment.

Because the SLDC nonattainment area has complete quality-assured data showing no violations of the ozone NAAQS over the most recent consecutive three-calendar-year period, the SLDC area has met the first component for redesignation; demonstration of attainment of the ozone NAAQS. EPA notes that the State of Utah has also committed in the maintenance plan to the necessary continued operation of the ozone monitoring network in compliance with 40 CFR part 58.

Section 3. Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

Section 107(d)(3)(E)(v) requires that, to be redesignated to attainment, an area must meet all applicable requirements under section 110 and part D of the CAA. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the CAA due after the submission of a complete redesignation request need not be considered in evaluating the request.

A. CAA Section 110 Requirements

On August 15, 1984, EPA approved revisions to Utah's SIP as meeting the requirements of section 110(a)(2) of the CAA (45 FR 32575). Although section 110 of the CAA was amended in 1990, most of the changes were not substantial. Thus, EPA has determined that the SIP revisions approved in 1984 continue to satisfy the requirements of section 110(a)(2). For further detail, please see 45 FR 32575. In addition, EPA has analyzed the SIP elements that it is proposing to approve as part of this action and has determined they comply with the relevant requirements of section 110(a)(2) of the CAA.

B. Part D Requirements

Before the SLDC moderate ozone nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable. Subpart 2 of part D establishes additional requirements for ozone nonattainment areas classified under table 1 of section 181(a).

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. However, under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than three years after an area has been designated as nonattainment under the amended CAA. EPA has not determined that the section 172(c) requirements were due on or before November 12, 1993, the date the SLDC redesignation request was deemed complete. And, the three-year period under section 172(b) would have ended November 15, 1993 for the SLDC nonattainment area. Thus, the State was not required to meet the section 172(c) requirements for redesignation purposes.

Nonetheless, it is worth noting that the provisions of sections 172(c)(1)(RACT), 172(c)(3) (emissions inventory), and 172(c)(5) (new source review permitting program) are subsumed or superseded by provisions in sections 182 (a) and (b) of the CAA. Also, EPA has interpreted the requirements of sections 172(c)(2) (reasonable further progress), 172(c)(6) (other measures), and 172(c)(9) (contingency measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'; General Preamble, 57 FR at 13564, April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Requirements under section 176, relating to conformity, were not due until November 25, 1994 (transportation conformity) and November 30, 1994 (general conformity). See 40 CFR sections 51.396 and 51.851. Because these requirements were not yet due when a complete redesignation request was submitted (November 12, 1993), they are not necessary SIP elements for the area to be redesignated.

The SLDC nonattainment area was classified as moderate for ozone. Therefore, to be redesignated to attainment, the area must meet the applicable requirements of subpart 2 of part D which include sections 182(a), 182(b), and 182(f). These requirements are discussed below.

(1.) Section 182(a)(1)—Emissions inventory. Section 182(a)(1) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the SLDC nonattainment area, as described in section 172(c)(3). This was due by November 15, 1992. EPA has interpreted ''current'' to mean calendar year 1990 (See 57 FR 13502, April 16, 1992). On November 12, 1993, the State submitted a 1990 base year inventory. This initial submittal of the 1990 base year inventory was intended to fulfill two purposes: to meet the section 182(a)(1) emissions inventory requirement and to serve as the attainment year emissions inventory for the SLDC ozone redesignation maintenance plan. The State subsequently decided to use 1994 as the attainment year. The maintenance plan that the Governor submitted on February 19, 1997, incorporates a revised 1990 base year inventory as background material in order to fulfill the requirements of section 182(a)(1) and includes a separate 1994 attainment year inventory. The revised 1990 base year inventory meets the requirements of section 182(a)(1) and EPA is proposing to approve it.

Summaries of the 1990 VOC, NO_X, and CO daily seasonal emissions are provided in the tables below. Salt Lake and Davis Counties Summary of Ozone Seasonal Emissions:

SUMMARY OF 1990 VOC EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Biogenic	Total
18.22	46.56	32.00	30.39	38.94	166.12

SUMMARY OF 1990 NO_X EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Total
26.01	5.41	26.98	44.69	103.10

SUMMARY OF 1990 CO EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Total
12.91	45.60	271.64	265.53	595.68

All supporting calculations and documentation for this 1990 ozone base year inventory are contained in the State's Technical Support Document (TSD) which supports this action.

(2.) Section 182(a)(2)(A) and 182(b)(2)—Reasonably Available Control Technology (RACT) for VOCs. Section 182(a)(2)(A) of the CAA requires that ozone nonattainment areas correct their deficient RACT rules for VOCs

(known as the ''RACT fix-up'' requirement). Areas designated nonattainment before the 1990 amendments to the CAA, which retained that designation after the 1990 amendments and were classified as marginal or above as of November 15, 1990, were required to meet the RACT fix-up requirement. The SLDC ozone nonattainment area falls within this category. Under section 182(a)(2)(A), those areas were required, by May 15, 1991, to correct RACT regulations to comply with pre-amendment guidance.[1] To address this requirement, the Governor submitted VOC RACT rule revisions to the SIP dated May 4, 1990, and July 25, 1991. EPA approved these VOC RACT fix-up revisions on June 26, 1992 (57 FR 28621).

Section 182(b)(2) of the CAA contains the VOC RACT ''catch-up'' requirements. For ozone nonattainment areas designated moderate and above, section 182(b)(2) requires SIP revisions to address three source categories.

Section 182(b)(2)(A) requires RACT for each category of VOC sources in the nonattainment area covered by a CTG document issued between the enactment of the 1990 CAA amendments and the date of attainment. Section 182(b)(2)(B) requires RACT for all VOC sources in the nonattainment area covered by a CTG that was issued before the date of enactment of the 1990 CAA amendments. Section 182(b)(2)(C) requires RACT for all other major stationary sources of VOCs that are located in the nonattainment area. SIP revisions described in section 182(b)(2)(A) are due by the date specified in the CTG document. Revisions described in section 182(b)(2)(B) and (C) were due November 15, 1992.

For the section 182(b)(2)(A) requirement, EPA issued a CTG document which appeared as Appendix E in the ''Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 18070, April 28, 1992). This CTG document listed the eleven CTGs that EPA anticipated publishing in accordance with section 183(a) and established timetables for the submittal of RACT rules for sources that were not ultimately covered by a CTG issued by November 15, 1993. Appendix E stated that for any of the eleven source categories for which EPA did not issue CTGs by November 15, 1993, the States were required to develop RACT rules and submit them to EPA by November 15, 1994. It should be noted that section 183(b) of the CAA also required EPA to issue CTGs for two additional source categories by November 15, 1993.

Due to budgetary constraints, EPA only issued one CTG, which covered two source categories, prior to November 15, 1993. This CTG was entitled ''Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processed in the Synthetic Organic Chemical Manufacturing Industry'' (SOCMI) (reference EPA–450/4–91–031, August, 1993). In section IX.D.2.b(3)(a) of the SLDC maintenance plan, the State indicates there are no SOCMI sources in the SLDC nonattainment area. Therefore, no SIP revision was needed to address SOCMI sources.

For the remaining nine source categories, the State was either required to make a negative declaration or submit a RACT rule for major sources by November 15, 1994, that required implementation of RACT by May 15, 1995. In the SLDC maintenance plan, the State provides negative declarations for seven of the nine source categories. The State also makes a negative declaration for one of the two section 183(b) source categories. For the two remaining section 183(a) source categories and the one remaining section 183(b) source category, the State submitted VOC RACT provisions for all major sources in the nonattainment area. These sources are the Amoco, Chevron, Crysen, Flying J, and Phillips refineries, Olympia Sales, and Hill Air Force Base. EPA has evaluated the VOC limits and requirements for these sources and has determined that they satisfy the requirements for VOC RACT. Based on the negative declarations and the adoption of VOC RACT for identified sources, EPA has determined that the State has met the requirements of section 182(b)(2)(A) of the CAA.

In addition, in section IX.D.2.b(3)(a) of the SLDC maintenance plan the State makes the following commitment to adopt CTGs issued in the future by EPA: ''As each CTG is issued, the State will review the sources in the nonattainment area, and either issue a negative declaration for that particular source category, meaning there are no sources for which the CTG is applicable or revise its rules in a manner consistent with a SIP revision to incorporate RACT (in the context of Section 182(b)(1)(A) of the Act)) for the following categories: (1) those source categories of VOC for which EPA issues a CTG document during the time between the submittal of the redesignation request, and the time when the area is officially redesignated to attainment in the **Federal Register**; and (2) at any time thereafter as CTGs are published by the EPA.''

For the section 182(b)(2)(B) requirement, EPA has determined that the Governor's submittals of May 4, 1990, and July 25, 1991, that were approved by EPA on June 26, 1992 (57 FR 28621), addressed RACT for all VOC sources in the SLDC nonattainment area covered by a CTG that was issued before the date of enactment of the 1990 CAA amendments.

Regarding the section 182(b)(2)(C) requirement for VOC RACT for major non-CTG sources, the SLDC maintenance plan addresses the same seven sources that it addresses for the 182(b)(2)(A) requirements. As noted above, EPA is satisfied that the limits and requirements for these sources represent VOC RACT. Although Utah submitted a ''generic'' RACT rule (contained in R307–14–1., UACR) for any other unidentified major sources of VOCs in the nonattainment area, EPA is satisfied that the State has identified all major sources of VOCs in the area. In reaching this conclusion, EPA is relying on the negative declarations by the State as well as EPA's review of sources in the national Aerometic Information and Retrieval System (AIRS) and of the 1994 attainment year emission inventory for the SLDC maintenance plan. Thus, Utah's generic VOC RACT rule is not needed to fulfill the requirements of section 182(b)(2)(C) of the CAA.

Also, R307–14–1. contains provisions that prevent EPA from fully approving it as meeting EPA's requirements for a generic RACT rule. In particular, R307–14–1. defines RACT in several places by reference to 40 CFR 51.100(o). This federal definition is limited by its own terms to circumstances that do not apply to a RACT determination under section 182(b) of the Act. In fact, this definition is at odds with EPA's longstanding definition of RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979). Although R307–14–1. does require any unidentified sources to meet RACT requirements and thus strengthens the SIP, it does not meet the CAA's requirements for VOC RACT. In addition, R307–14–1.F. could be construed to allow the executive secretary of Utah's Department of

[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy (52 FR 45044, November 24, 1987); the ''Blue Book'' (''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of the November 24, 1987 **Federal Register** Notice'' of which notice of availability was published in the **Federal Register** on May 25, 1998); and the existing Control Technology Guidelines (CTG).

Environmental Quality to approve alternative test methods without EPA approval. This type of director's discretion provision is not consistent with EPA's requirements. Accordingly, EPA is only proposing limited approval of R307–14–1. for its strengthening effect on the SIP, but not as meeting the CAA's requirements for VOC RACT.

EPA also notes that in Section IX, Part D.2, pages 10—12 of the maintenance plan the State includes references to 40 CFR 51.100(o) and lists factors considered in determining RACT for sources that suggest that VOC RACT may vary depending on whether or not the area is attaining the standard. It is EPA's position that VOC RACT is not dependent on whether or not the area is attaining the standard. Thus, although the language in the maintenance plan did not result in inappropriate RACT determinations, EPA wants to make clear that use of the RACT definition in 40 CFR 51.100(o) and factors that suggest that RACT is dependent on whether or not an area is attaining the standard is inappropriate for VOC RACT determinations under section 182(b)(2) of the CAA. EPA would expect the State to use the proper RACT definition in making any future RACT determinations.

(3.) Section 182(a)(2)(C) New Source Review (NSR). The CAA requires all classified ozone nonattainment areas to meet several requirements regarding NSR including provisions to ensure that increased emissions of VOC compounds will not result from any new or modified stationary major sources and a general offset rule. The State of Utah has a fully-approved NSR program (60 FR 22277, May 5, 1995) that meets the requirements of section 182(a)(2)(C). This NSR program also meets the requirements of section 172(c)(5).

(4.) Section 182(a)(3)(B)—Emissions Statements. Section 182(a)(3)(B) of the CAA required a revision to the SIP, by November 15, 1992, to require sources of NO_X and VOCs to provide the State with a statement detailing actual emissions each calendar year. The Governor of Utah submitted a revision to the SIP on November 12, 1993, for the purpose of implementing an emission statement program for stationary sources within the Salt Lake/Davis County nonattainment area. EPA determined that this submittal adequately addressed the requirements of section 182(a)(3)(B) and fully approved this SIP revision on May 6, 1996 (61 FR 20142).

(5.) Section 182(b)(1)—15% Reasonable further progress plan, and attainment demonstration. The SIP elements required by CAA section 182(b)(1) of the CAA—a 15% VOC reduction plan and an attainment demonstration—were not due until November 15, 1993, after the redesignation request was deemed complete. Therefore, these SIP elements are not necessary for the area to be redesignated to attainment. In addition, EPA has interpreted section 182(b)(1) to not require these SIP elements for areas that are attaining the ozone standard. See May 10, 1995, memorandum from John S. Seitz, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard.'' The Sierra Club Legal Defense Fund challenged the application of this interpretation to the SLDC nonattainment area, and the Tenth Circuit Court of Appeals upheld EPA's interpretation.

(6.) Section 182(b)(3)—Stage II. For ozone nonattainment areas classified as moderate and above, section 182(b)(3) required States to submit SIP revisions by November 15, 1992, to require the installation and operation of gasoline refueling vapor recovery systems (''Stage II''). However, pursuant to CAA section 202(a)(6), this requirement was superseded for moderate ozone nonattainment areas when EPA promulgated onboard vapor recovery regulations (59 FR 16262, April 6, 1994). Thus, the SLDC nonattainment area is not required to meet the requirements of section 182(b)(3).

(7.) Section 182(b)(4)—Motor Vehicle Inspection and Maintenance (I/M). Section 182(b)(4) of the CAA requires a SIP revision for all moderate ozone nonattainment areas that provides for the implementation of a basic vehicle inspection and maintenance program. In addition, Congress directed EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the CAA to have an I/M program.

On November 5, 1992, the EPA published a final regulation establishing the I/M requirements, pursuant to sections 182 and 187 of the CAA (57 FR 52950). The I/M regulation was codified at 40 CFR Part 51, subpart S, and required states to submit an I/M SIP revision which includes all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993.

The State of Utah submitted a SIP revision in November 1993 which upgraded the then existing County-run I/M programs to meet the CAA requirements for basic I/M programs in the Salt Lake (Davis and Salt Lake Counties), Ogden (Weber County), and Provo-Orem (Utah County) metropolitan statistical areas (MSA) beginning on July 1, 1994. On February 19, 1997, the State submitted a SIP revision that provides for improved basic I/M programs in Salt Lake and Davis Counties to be implemented beginning January 1, 1998. The improved basic I/M programs in Salt Lake and Davis Counties provide additional VOC and NO_X reductions necessary for the ozone maintenance demonstration.

The Weber County basic I/M program is required by the CAA as a SIP element unrelated to the SLDC ozone nonattainment area requirements. Therefore, EPA is proposing approval of the Weber County program in this notice as an action separate from the SLDC ozone redesignation request and maintenance plan. The Utah County I/M program is not being proposed for approval in this notice, but instead will be addressed in a future notice.

Utah is currently implementing annual test-and-repair I/M programs (Davis, Salt Lake, and Weber Counties) which meet the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule. Testing is being performed by independent inspection stations with State/County oversight. Other aspects of Utah's I/M programs include: testing of all 1968 and newer vehicles, a test fee to ensure the State/Counties have adequate resources to implement the program, enforcement by registration denial, a repair effectiveness program, a commitment to testing convenience, quality assurance, data collection, a specified waiver rate, reporting, test equipment and test procedure specifications, a commitment to ongoing public information and consumer protection programs, inspector training and certification, and penalties for inspector incompetence. EPA has reviewed the submittals against the CAA statutory requirements and for consistency with Federal I/M regulations as codified in 40 CFR § 51.350 through § 51.373. EPA summarizes the Federal requirements and how the State/Counties have satisfied the requirements below.

(7.)a. 40 CFR 51.350—Applicability. The SIP needs to describe the applicable areas in detail and must also include the legal authority or rules necessary to establish program boundaries. Utah's County-run I/M programs, as authorized by Sections 41–6–163.6 thru 41–6–163.7 of the Utah Code Unannotated, are to be implemented county-wide in Davis, Salt

Lake, and Weber Counties, as described in the Utah SIP, Section X, Basic Automotive Inspection and Maintenance (I/M).

(7.)b. 40 CFR 51.352—Basic I/M performance standard. The I/M programs provided for in the SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The State/Counties have submitted a modeling demonstration using the EPA's emissions factor model showing that the basic performance standard is met in all of the affected Counties. Additional modeling was submitted for the improved basic programs which will be implemented in Salt Lake and Davis Counties beginning January 1, 1998. The State/Counties used EPA's MOBILE5a emission factor model to conservatively estimate future reductions for these improved basic programs. EPA believes the conservative methodology employed by the State/Counties provides the VOC and NOx reductions necessary to demonstrate maintenance of the ozone NAAQs without further demonstration/ program evaluation.

The State/Counties may choose to perform future program evaluations to quantify emissions reductions beyond those claimed using the conservative approach employed for this submittal.

(7.)c. 40 CFR 51.353—Network type. The SIP includes a description of the network to be employed, and the required legal authority. Salt Lake and Weber Counties have chosen to implement decentralized, I/M programs, which are comprised of independently operated facilities. Davis County provides for a decentralized network of independently operated facilities through January 1, 1998, at which time the County will operate centralized testing facilities performing the IM240 test procedure in addition to independently operated facilities performing two-speed idle testing.

The Utah I/M programs, in each of the affected Counties, allow fleet self-testing programs with oversight by County Health Department employees. Legal authority contained in Sections 41–6–163.6 thru 41–6–163.7, Utah Code Unannotated, authorizes the Counties to implement these programs.

(7.)d. 40 CFR 51.354—Adequate tools and resources. The SIP needs to include a description of the resources that will be used for program operation, which include: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in Federal I/M rule; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The SIP narrative and County Ordinances contained in the SIP submittal detail that adequate budget resources, staffing support, and equipment and resources are dedicated to the program. Thus, the submittal meets the requirements of the Federal Rule.

(7.)e. 40 CFR 51.355—Test frequency and convenience. The SIP needs to include the test schedule in detail, including the test year selection scheme if testing is other than annual.

The County I/M Ordinances require annual inspections for all subject motor vehicles in the basic I/M programs. For new vehicles the first test is required for re-registration two years after initial registration.

The improved basic program in Salt Lake County requires annual testing of all 1968 and newer vehicles, with an option to perform biennial testing if legislative authority is changed to allow biennial testing. If the County seeks to switch to biennial testing, EPA would require the State/Salt Lake County to demonstrate that the necessary emission reductions can still be provided to demonstrate maintenance of the ozone standard.

The Davis County improved basic I/M program ordinance requires all 3, 6, and 9 year-old vehicles to be inspected at the County-run centralized facilities. All other vehicles are required to obtain annual inspections in independent testing facilities.

All motor vehicles registered as government-owned vehicles or gasoline-powered heavy-duty trucks are required to be certified annually in both the basic and improved basic programs.

(7.)f. 40 CFR 51.356—Vehicle coverage. The SIP includes a detailed description of the number and types of vehicles covered by the County-run programs, and a plan for how those vehicles are to be identified.

The County-run programs' vehicle coverage includes all 1968 and newer model year light-duty cars and trucks and heavy-duty gasoline-powered trucks, registered or required to be registered within the MSA, and fleets primarily operated within the I/M program areas, including government-owned and operated vehicles. Vehicles are identified through the State of Utah's Tax Commission Division of Motor Vehicles (DMV) database.

Vehicles exempted from the program include: motorcycles, farm trucks and diesel vehicles. Diesel vehicles are required to be inspected in County-run diesel I/M lanes. The exempted vehicles are accounted for in the modeling submitted by the State/Counties and documented in the SIP narrative as required.

(7.)g. 40 CFR 51.357—Test procedures and standards. The SIP includes a description of each test procedure used, and a rule, ordinance, or law describing and establishing the test procedures.

Davis and Weber Counties' I/M programs incorporate by reference EPA's preconditioned two-speed idle test as specified in EPA–AA–TSA–I/M–90–3 March 1990, Technical Report, ''Recommended I/M Short Test Procedures for the 1990's: Six Alternatives.'' Additionally, Davis County incorporates by reference the IM240 test procedure specified in EPA–AA–RSPD–IM–96–1 to be administered on 3, 6, and 9 year-old vehicles beginning January 1, 1998.

Salt Lake County's I/M program currently uses EPA's Preconditioned two-speed idle test as specified in EPA–AA–TSA–I/M–90–3 March 1990, Technical Report. Beginning January 1, 1998, the County will implement the 2-mode Acceleration Simulation Mode (ASM2) test in accordance with E0PA–AA–RSPD–IM–96–2.

The calibration specifications and emissions test procedures meet the minimum standard established in Appendix A of 40 CFR Part 51, Subpart S. Test procedures are established in each of the County Rules, which are incorporated into the SIP.

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

The Utah I/M SIP provides that the program equipment will meet the California BAR 90/BAR97 accuracy standards at a minimum for the two-speed idle and ASM2 testing equipment. Also, Utah's SIP for Davis

County provides that the program equipment will meet the IM240 equipment specifications contained in EPA-AA-RSPD-IM–96–1.

The Utah SIP narrative addresses the requirements in 40 CFR 51.358 and includes descriptions of performance features and functional characteristics of the computerized test systems. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

(7.)i. 40 CFR 51.359—Quality control. The SIP needs to include a description of quality control and recordkeeping procedures. The SIP also needs to include the procedures manual, rule, and ordinance or law describing and establishing the quality control procedures and requirements.

The Utah I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with the Federal I/M rule. These requirements will help ensure that equipment calibrations are properly performed and recorded, and that compliance certificates are properly maintained and secured. Additional quality control procedures are documented in individual County Ordinances.

(7.)j. 40 CFR 51.360—Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

The Salt Lake and Davis County I/M programs commit to a waiver rate of 1 percent or less. The Weber County I/M program commits to a waiver rate of 5 percent or less. Waiver procedures are detailed in individual County ordinances, which are incorporated into the SIP. Legal authority for waivers is delegated to the Counties in section 41–6–163, Utah Code Unannotated.

(7.)k. 40 CFR 51.361—Motorist compliance enforcement. The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program provisions are contained in the SIP narrative and in the individual County Ordinances. The motorist compliance enforcement program will be implemented, in part, by the Utah Tax Commission Division of Motor Vehicles (DMV), which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test or were granted a compliance waiver. State and local police agencies have the authority to cite motorists with expired registration tags. Authority for these provisions is contained in Section 41–6–163 of the Utah Code Unannotated.

Current compliance rates are estimated at greater than 95 percent in each of the County areas. The SIP commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles.

(7.)l. 40 CFR 51.362—Motorist Compliance Enforcement Program oversight. The SIP narrative includes a description of the enforcement program oversight and information management activities. The State/Counties will periodically review the compliance rates of area I/M programs to ensure the 96 percent commitment is being met. The DMV, Utah Division of Air Quality, Utah highway patrol, and County I/M program staff meet twice a month to ensure on-going high quality oversight of a joint motorist compliance program.

(7.)m. 40 CFR 51.363—Quality assurance. The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Utah I/M SIP narrative and appendices to the County I/M ordinances include descriptions of the quality assurance programs and procedures. The quality assurance programs include operation progress reports, and overt and covert audits of all emission inspectors and emission inspections. Overt and covert audits are conducted by the County I/M staff. In addition, remote inspector audits are performed by the County I/M personnel. Procedures and techniques for overt and covert performance, recordkeeping, and equipment audits are given to auditors and updated as needed.

(7.)n. 40 CFR 51.364—Enforcement Against Contractors, Stations and Inspectors

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds.

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

(7.)o. 40 CFR 51.366—Data analysis and reporting. The Utah I/M SIP narrative provides that the State/County programs will report summary data based upon program activities taking place in the previous year. The report

will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Utah commits to address all of the data elements listed in section 51.366 of the Federal I/M rule.

(7.)p. 40 CFR 51.367—Inspector training and licensing or certification. The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Utah I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training includes all elements required by 40 CFR 51.367(a). All inspectors are required to pass a written test in order to become certified to inspect vehicles in the Utah I/M program.

(7.)q. 40 CFR 51.369—Improving repair effectiveness. The SIP needs to include a description of the technical assistance program to be implemented, and a description of the repair technician training resources available in the community.

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

The Utah Air Quality Board (UAQB) formally adopted the above-described I/M programs for Salt Lake County and Davis County on February 5, 1997. The Weber County I/M program was re-numbered and also re-adopted by the UAQB on February 5, 1997. Based on the above analysis of each of the three County programs, EPA is proposing approval of the I/M programs for Salt Lake, Davis, and Weber Counties as a revision to Utah's SIP.

(8.) Section 182(f)—Oxides of Nitrogen (NO_X) requirements. Section 182(f) of the CAA requires States with ozone nonattainment areas to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of VOCs. These NO_X requirements, NO_X RACT and NO_X NSR, were to be submitted to EPA in a SIP revision by November 15, 1992. Section 182(f) also specifies circumstances under which these NO_X requirements would be limited or would not apply.

(8.)a. NSR for NO_X. For the NO_X NSR requirement, the State of Utah has a fully-approved NSR program (60 FR 22277, May 5, 1995) that meets the requirements of section 182(a)(2)(C) and applies to sources of NO_X. This program also meets the requirements of section 172(c)(5).

(8.)b. Section 182(f)—.NO_X RACT For the purposes of addressing the NO_X RACT requirement of section 182(f), sources within the SLDC ozone nonattainment area with NO_X emissions of greater than or equal to 100 tons per year are required to employ RACT. The NO_X RACT requirements are defined by reference to section 182(b)(2) of the CAA. As EPA has not issued any CTGs for NO_X sources, the provisions of sections 182(b)(2)(A) and (B) are not applicable. Section 182(b)(2)(C), as applied to NO_X, required the submittal of RACT rules for major stationary sources of NO_X by November 15, 1992.

The State has established NO_X RACT for the Gadsby Power Plant, owned by PacifiCorp, and the Utah Power Plant, owned by Kennecott Utah Copper (KUC). As part of the Utah PM_{10} SIP revision that EPA approved on July 8, 1994 (59 FR 35036), the Gadsby Power Plant was required to switch from coal to natural gas on a year-round basis and to meet NO_X limits based on the use of low-NO_X burners. These NO_X limits are contained in section IX, Part H of the Utah SIP.

For the Utah Power Plant, the State established NO_X limits for boilers numbered 1 through 4. For boiler number 4, a tangentially fired coal-burning boiler, the State established a NO_X limit of 384 ppm and 377 lbs. per hour (equivalent to 0.45 lbs. of NO_X per million Btu.) This is consistent with EPA's presumptive NO_X RACT limit for tangentially fired coal-burning boilers (see 57 FR 55620, November 25, 1992).

Boilers numbered 1 through 3 are older, coal-burning wet bottom units. Through testing, Kennecott determined that these boilers could be retrofitted with low-NO_X burners. Based on the use of low-NO_X burners, the State set NO_X limits for boilers numbered 1 through 3 at 216 lbs. of NO_X per hour and 426.5 ppmdv (parts per million dry by volume) measured at 3% oxygen. These emission limits are specified in an approval order for the Utah Power Plant and in the maintenance plan.

EPA has evaluated the NO_X limits for the Gadsby and Utah Power Plants and has determined they satisfy the NO_X RACT requirement for these sources.

(8.)c. Partial NO_X RACT Exemption request. Although the State required some NO_X reductions at other major stationary sources of NO_X as part of the PM_{10} SIP for Salt Lake County and southern Davis County, the State did not perform a NO_X RACT evaluation or require NO_X RACT for these other sources. However, the State has submitted a request pursuant to CAA section 182(f)(2) for a NO_X RACT exemption for major stationary sources of NO_X in the SLDC nonattainment area other than the Gadsby and Utah Power Plants.

Under section 182(f)(2)(A), the Administrator may limit the application of the NO_X RACT requirement to the extent necessary to avoid excess reductions of NO_X. Section 182(f)(2)(B)(i) defines excess NO_X reductions as reductions the Administrator determines would not contribute to attainment of the ozone NAAQS in the area. EPA has indicated that in cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data, without having implemented all or a portion of the section 182(f) NO_X provisions, it is clear that this test is met since ''additional reductions of [NO_X] would not contribute to attainment'' of the NAAQS in that area. EPA issued guidance memorandums addressing this NO_X exemption issue; of particular importance to the Utah situation are a May 27, 1994, John S. Seitz memorandum entitled ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria'' and a January 12, 1995, G. T. Helms memorandum entitled ''Scope of Nitrogen Oxides (NO_X) Exemptions.''

The State met this NO_X exemption threshold in 1992 as ambient air quality monitoring data from 1990, 1991, and 1992 showed that the SLDC area had attained the ozone NAAQS. In addition, monitoring data show that the SLDC area has continued to maintain the ozone NAAQS.

The ambient air quality monitoring data for the years 1990, 1991, and 1992, as provided with the State's May 2, 1997, letter, have been quality assured and archived in EPA's Aerometric Information and Retrieval System (AIRS) by the State in accordance with 40 CFR Part 58. These data were then evaluated by EPA according to the procedures in 40 CFR Part 50, Appendix H. The results of this analysis indicate that the SLDC area attained the current ozone NAAQS as of 1992. Additional quality assured data were provided with the State's May 2, 1997, letter, and are also included in the maintenance plan and the State's TSD for the redesignation request. These data were also archived in AIRS by the State, in accordance with 40 CFR part 58, and

include the years 1993, 1994, 1995, and 1996. Based on EPA's review of all the air monitoring data from 1990 through 1996, EPA has determined that the SLDC area attained the ozone NAAQS in 1992 and has continued to demonstrate attainment of the ozone NAAQS through 1996. Therefore, EPA has determined that the State's May 2, 1997, partial NO_X RACT exemption request for the SLDC area meets the applicable requirements of section 182(f)(2) of the CAA and is consistent with EPA guidance.

It is important to note that EPA is only proposing to approve an exemption from the NO_X RACT requirements for those major stationary sources of NO_X in the SLDC nonattainment area other than the Gadsby Power Plant and the Utah Power Plant. EPA is not proposing an exemption from the NO_X NSR requirements, NO_X conformity requirements, or the motor vehicle I/M requirements related to NO_X. Furthermore, EPA notes that NO_X limits for some or all of the major stationary sources of NO_X other than the Gadsby and Utah Power Plants are necessary for the SLDC nonattainment area to demonstrate maintenance of the ozone NAAQS through 2007 (2020 for conformity purposes).

(8.)d. R307–14–1 Generic NO_X RACT. The State also has a generic NO_X RACT rule, contained in R307–14–1, UACR, which requires RACT for existing major sources of NO_X for which no specific emission limits or other control requirements have been established in R307–14. EPA is proposing limited approval of the generic NO_X RACT provisions for their strengthening effect on the SIP. EPA is not making a finding that these provisions meet the requirements to be considered RACT. As noted above with respect to the State's generic VOC RACT provisions, which are also contained in R307–14–1 and which overlap to a significant degree, the State's reference to 40 CFR 51.100(o) to define RACT is inappropriate. In addition, R307–14–1.D.(2) suggests that prior applications of RACT under other Federal or State requirements might be deemed adequate to satisfy the NO_X RACT requirements of CAA section 182(f) even if they do not meet presumptive NO_X RACT levels. EPA believes the State may be referring to limits set for the PM_{10} SIP. It is EPA's position that the State's suggested approach is not allowed under section 182(f) of the CAA. NO_X RACT for section 182(f) purposes must be evaluated independently of NO_X limits set for purposes of a PM_{10} SIP or other State or Federal requirement. Finally, EPA notes that R307–14–1.F applies to NO_X as well as VOCs and leaves discretion in the Executive Secretary of the Utah Department of Environmental Quality to change test methods without EPA approval. As discussed above with respect to VOC RACT, this type of provision is not consistent with EPA's requirements.

For these reasons, EPA cannot fully approve Utah's generic NO_X RACT rule as meeting section 182(f) and other SIP requirements. However, EPA believes this generic NO_X RACT rule strengthens the SIP and is proposing limited approval of the rule provisions for their strengthening effect only. The State's generic NO_X RACT rule is not necessary to the redesignation request because the State has adopted NO_X RACT for the Gadsby and Utah Power Plants and the SLDC area qualifies for a NO_X RACT exemption for any other major stationary sources of NO_X.

Section 4. Redesignation Criterion: The Area Must Have A Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

Based on the approval into the SIP of provisions under the pre-1990 CAA and EPA's prior approval of SIP revisions required under the 1990 amendments to the CAA, EPA has determined that Utah will have a fully approved ozone SIP under section 110(k) for the SLDC ozone nonattainment area if EPA takes final action to approve the 1990 base year emissions inventory, the State's VOC and NO_X RACT requirements (with the exceptions noted above), the State's partial NO_X RACT exemption request, the Basic I/M program, and the Salt Lake and Davis Counties Improved I/M rules as described above. EPA intends to take final action approving the above SIP elements at the same time that EPA takes final action to approve the SLDC ozone redesignation request.

Section 5. Redesignation Criterion: The Area Must Show That The Improvement in Air Quality is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

In addition to the reduction of emissions from the revisions to the SIP described above (VOC RACT, NO_X RACT for the Utah Power Plant and Gadsby Power Plant, the PM_{10} SIP revision, VOC/NO_X NSR) and in section IX.D.2.b of the SLDC maintenance plan, other Federal emission control measures have come into place since the SLDC area last violated the current ozone standard. These control measures include the reduction in summertime fuel volatility to 7.8 psi (beginning in 1992), as measured by Reid Vapor Pressure (RVP), and fleet turnover due to the Federal Motor Vehicle Control Program (FMVCP). Both of these control measures provided significant VOC emission reductions.

EPA has evaluated the various State and Federal control measures, the 1990 base year emission inventory, the 1994 attainment year emission inventory, and the projected emissions described below, and has concluded that the improvement in air quality in the SLDC nonattainment area has resulted from emission reductions that are permanent and enforceable.

Section 6. Redesignation Criterion: The Area Must Have A Fully Approved Maintenance Plan Under Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, EPA issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of

Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992. In this **Federal Register** action, EPA is proposing approval of the State of Utah's maintenance plan for the SLDC nonattainment area because EPA has determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. EPA's analysis of the pertinent maintenance plan requirements, with reference to the Governor's February 19, 1997, submittal, is provided as follows:

A. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble and September 4, 1992, policy memorandum referenced above. Under EPA's interpretations, areas seeking to redesignate to attainment for ozone may demonstrate future maintenance of the NAAQS either by showing that future ozone precursor emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the SLDC area, the State selected the emissions inventory approach for demonstrating maintenance of the ozone NAAQS.

The maintenance plan that the Governor submitted on February 19, 1997, included comprehensive inventories of the VOC, NO_X, and CO emissions from the SLDC area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, on-road mobile sources, and biogenics. The State selected 1994 as the year from which to develop the attainment year inventory and included year-by-year projections out to 2007. More detailed descriptions of the 1994 attainment year inventory and the projected inventories are documented in the maintenance plan, sections IX.D.2.e and IX.D.2.f, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 1994 attainment year and a sampling of the projected years are provided in the tables below.

	1994	1997	2000	2003	2007
Summary of VOC Emissions in Tons Per Day					
Point Sources	11.81	12.79	13.42	14.13	15.04
Area Sources	40.81	45.24	48.50	51.81	56.59
Non-Road Mobile Sources	33.16	32.12	30.91	28.35	22.81
On-Road Mobile Sources	75.40	70.66	62.96	60.46	58.47
Biogenics	38.94	38.94	38.94	38.94	38.94
Total	200.13	199.75	194.73	193.69	191.84
Summary of NO_X Emissions in Tons Per Day					
Point Sources	27.74	24.97	26.15	27.57	29.47
Area Sources	7.32	7.95	8.38	8.85	9.57
Non-Road Mobile Sources	50.17	51.04	49.34	48.44	48.06
On-Road Mobile Sources	73.66	73.11	65.87	65.24	67.31
Total	158.89	157.08	149.74	150.10	154.39
Summary of CO Emissions in Tons Per Day					
Point Sources	3.83	3.99	4.18	4.40	4.67
Area Sources	4.88	10.19	10.45	10.72	11.15
Non-Road Mobile Sources	292.86	308.05	322.65	339.76	366.63
On-Road Mobile Sources	634.95	557.84	451.89	413.22	393.23
Total	936.51	880.07	789.17	768.10	775.68

B. Demonstration of Maintenance—Projected Inventories

Total ozone precursor emissions of VOCs and NO_X were projected by the State year-by-year from 1995 through 2007.[2] These projected inventories were prepared in accordance with EPA guidance (further information is provided in section IX.D.2.f of the maintenance plan). The projected inventories show that VOC and NO_X emissions are not expected to exceed the 1994 attainment level during this time period and, therefore, the SLDC area has satisfactorily demonstrated maintenance.

C. Monitoring Network and Verification of Continued Attainment

Continued attainment of the ozone NAAQS in the SLDC area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the SLDC maintenance plan. In section IX.D.2.c.(4) and section IX.D.2.j.(2) the State commits to continue the operation of the ozone monitors in the SLDC area and to annually review this monitoring

[2] EPA notes that in developing the 1990 base year inventory, the State provided CO emission data as required by EPA for 1990 base year emission inventories. As the initial November 12, 1993, maintenance plan submittal used 1990 as the attainment year inventory, these CO emissions were projected by the State along with VOC and NO_X emissions. The State continued to carry CO emission data through each subsequent revision to the maintenance plan up through, and including, the February 19, 1997 version. EPA is acknowledging and archiving these CO emission projections with this **Federal Register** action. However, these CO emission projections are not necessary for the SLDC redesignation to attainment and will not be discussed further.

network and make changes as appropriate. Also, in section IX.D.2.j.(1)(a) the State commits to prepare a comprehensive emission inventory of VOC, NO_X, and CO emissions every three years beginning with 1996. These inventories will be based on the most current Vehicle Miles Traveled (VMT) data, actual point source emissions, and area source emissions based on the most current population and industry growth information. The above commitments by the State, which will be enforceable by EPA following the final approval of the SLDC maintenance plan SIP revision, are deemed adequate by EPA.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. As stated in Section IX.D.2.h of the maintenance plan, the contingency measures for the SLDC area will be triggered by a violation of the ozone standard. The contingency measures identified are: (1) increase the VOC and NO_X offset levels from 1.15 to 1 to 1.20 to 1, (2) decrease the threshold level for requiring offsets from 100 tons per year to 50 tons per year, (3) implement Stage II vapor recovery, and (4) require more stringent low-NO_X burner controls. A more complete description of the triggering mechanism and these contingency measures can be found in section IX.D.2.h of the maintenance plan SIP submittal. EPA finds that the contingency measures provided in the State's maintenance plan meet the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State of Utah has committed to submit a revised maintenance plan SIP revision eight years after redesignation. This provision and other State-triggered mechanisms (such as in response to revisions to the ozone NAAQS or to take advantage of improved or more expeditious methods of maintaining the ozone standard) for revising the maintenance plan are contained in section IX.D.2.h.(3) of the SLDC maintenance plan.

F. Transportation Conformity

One key provision of the conformity regulations requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budgets in the SIP (40 CFR sections 93.118 and 93.119). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment area. The rule's requirements and EPA's policy on emissions budgets are found in the Preamble to the transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines emissions budgets for each year between 1994 and 2007, and for 2015 and 2020. (See Table 8 of the maintenance plan). The 1994–2007 emissions budgets are based on the maintenance plan's emission inventory projections, while the 2015 and 2020 budgets are based on EKMA modeling. The maintenance plan lists budgets for Salt Lake County and Davis County separately, and for the entire nonattainment area (both Counties combined). The plan provides that the metropolitan planning organization (Wasatch Front Regional Council) may demonstrate conformity with the budgets for each County individually or for the entire nonattainment area at its option. The plan also identifies a safety margin (called the ''emissions credit'') for each year, which is the difference between total emissions from all sources in the attainment year and in each future year. The plan provides that this safety margin may be used for conformity purposes if authorized by the Utah Air Quality Board.

Proposed Action

In this action, EPA is proposing to approve the SLDC redesignation request, maintenance plan, and other related SIP elements, including the 1990 base year emissions inventory, Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC), NO_X RACT for Kennecott's Utah Power Plant and for the Gadsby Power Plant, and the Basic Inspection and Maintenance (I/M) and Improved I/M provisions for Salt Lake and Davis Counties. EPA is also proposing to approve a partial Nitrogen Oxides (NO_X) RACT exemption request. EPA will not proceed with approval of the redesignation request unless EPA also proceeds with the final full approval of the maintenance plan, all applicable SIP elements, and the partial NO_X RACT exemption.

In this action, EPA is also proposing to give limited approval to the State's generic VOC RACT and generic NO_X RACT rules, and to fully approve the I/M provisions for Weber County. These SIP elements are either not necessary or not relevant to the SLDC redesignation request.

EPA is requesting comments on all aspects of this proposal. As indicated elsewhere in this document, to be considered, comments must be received by June 23, 1997.

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.

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant 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.

Redesignation of an area to attainment under sections 107(d)(3) (D) and (E) of the CAA does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I

certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a 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).

Approvals of NO_X exemption requests under section 182(f) of the CAA do not create any new requirements. Therefore, I certify that approval of the State's partial NO_X RACT exemption request will not have a significant impact on any small entities affected.

C. Unfunded Mandates

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

EPA has determined that the proposed 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 will approve a redesignation to attainment, pre-existing requirements under State or local law, and an exemption from requirements otherwise imposed under the CAA; this action will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 14, 1997.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 97–13649 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5828–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Middletown Air Field Site, located in Middletown, Pennsylvania, from the National Priorities List and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Middletown Air Field Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before June 23, 1997.

ADDRESSES: Comments may be submitted to Nicholas J. DiNardo, (3HW50), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566–3365.

Comprehensive information on this Site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region III, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5363.

Middletown Public Library, 20 North Catherine Street, Middletown, PA 17057, (717) 944–6412.

FOR FURTHER INFORMATION CONTACT: Nicholas J. DiNardo (3HW50), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–3365.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete the Middletown Air Field Site, Dauphin County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site from the NPL for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required; or