

as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to sue VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by September 30, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 30, 2005.

Carol Rushin,

Acting Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(105) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(105) Revisions to the Long-Term Strategy of Colorado's State Implementation Plan for Class I Visibility Protection (Visibility SIP), as submitted by the Governor on April 12, 2004. The revisions update strategies, activities, and plans that constitute reasonable progress toward the National visibility goal.

(i) Incorporation by reference.

(A) "Revision of the Long-Term Strategy," (Part II of the January 31, 2002 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection,") effective on February 21, 2002.

[FR Doc. 05-15054 Filed 7-29-05; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08-OAR-2005-UT-0002; FRL-7939-8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Utah. On October 19, 2004, the Governor of Utah submitted revisions to Utah's Rule R307-110-12, "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," which incorporates a revised maintenance plan for the Salt Lake City carbon monoxide (CO) maintenance area for the CO National Ambient Air Quality Standard (NAAQS). The revised maintenance plan contains revised transportation conformity budgets for the years 2005 and 2019. In addition, the Governor submitted revisions to Utah's Rule R307-110-33, "Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County," which incorporates a revised vehicle inspection and maintenance program for Salt Lake County. In this action, EPA is approving the Salt Lake City CO revised maintenance plan, the revised transportation conformity budgets, the revised vehicle inspection and maintenance program for Salt Lake County, and the revisions to rules R307-110-12 and R307-110-33. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on September 30, 2005 without further notice, unless EPA receives adverse comment by August 31, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by RME Docket Number R08-OAR-2005-UT-0002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://docket.epa.gov/rmepub/index.jsp>. Regional Materials in EDOCKET (RME), EPA's electronic public docket and

comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: long.richard@epa.gov, russ.tim@epa.gov, and mastrangelo.domenico@epa.gov.
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466.
- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME Docket Number R08-OAR-2005-UT-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. EPA's Regional Materials in EDOCKET and federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone (303) 312-6436, and e-mail at: mastrangelo.domenico@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Information
- II. What Is the Purpose of This Action?
- III. What Is the State's Process to Submit These Materials to EPA?
- IV. EPA's Evaluation of the Revised Maintenance Plan
- V. EPA's Evaluation of the Transportation Conformity Requirements
- VI. EPA's Evaluation of the Revised Vehicle Inspection and Maintenance Program
- VII. Consideration of Section 110(l) of the CAA
- VIII. Final Action
- IX. Statutory and Executive Order Reviews

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

- (iii) The initials *NAAQS* mean National Ambient Air Quality Standard.

- (iv) The initials *SIP* mean or refer to State Implementation Plan.

- (v) The word *State* means the State of Utah, unless the context indicates otherwise.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through Regional Materials in EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Is the Purpose of This Action?

In this action, we are approving a revised maintenance plan for the Salt

Lake City CO attainment/maintenance area that is designed to keep the area in attainment for CO through 2019, we're approving revised transportation conformity motor vehicle emissions budgets (MVEBs), and we're approving revisions to the vehicle inspection and maintenance program for Salt Lake County. We are also approving revisions to Utah's Rule R307-110-12, "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," and Rule R307-110-33, "Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County," which merely incorporate the State's SIP revisions to the Salt Lake City CO maintenance plan and the vehicle inspection and maintenance program for Salt Lake County, respectively.

We approved the original CO redesignation to attainment and maintenance plan for the Salt Lake City area on January 21, 1999 (see 64 FR 3216).

The original Salt Lake City CO maintenance plan that we approved on January 21, 1999 (hereafter January 21, 1999 maintenance plan) utilized the then applicable EPA mobile sources emission factor model, MOBILE5a. On January 18, 2002, we issued policy guidance for States and local areas to use to develop SIP revisions using the new, updated version of the model, MOBILE6. The policy guidance was entitled "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" (hereafter, January 18, 2002 MOBILE6 policy). On November 12, 2002, EPA's Office of Transportation and Air Quality (OTAQ) issued an updated version of the MOBILE6 model, MOBILE6.2, and notified Federal, State, and Local agency users of the model's availability. MOBILE6.2 contained additional updates for air toxics and particulate matter. However, the CO emission factors were essentially the same as in the MOBILE6 version of the model.

For the revised maintenance plan, the State recalculated the CO emissions for the 1993 attainment year, projected emission inventories for 2004, 2005, 2008, 2011, 2014, 2017, and 2019, and calculated all the mobile source emissions using MOBILE6.2. Based on projected significant mobile source emission reductions for the interim years between 2005 and 2019, the State's revised maintenance demonstration is also able to accommodate the relaxation of certain provisions for newer vehicles in the Salt Lake County Vehicle Inspection and Maintenance (I/M) Program while continuing to demonstrate maintenance of the CO NAAQS. Thus, the State has

asked us to approve a revision to "Vehicle Inspection and Maintenance Program, Salt Lake County" (hereafter referred to as "Salt Lake County I/M program" or "I/M program") that allows vehicles less than six years old to be inspected every other year instead of annually. The State calculated a CO MVEB for 2005 and applied a selected amount of the available safety margin to the 2005 transportation conformity MVEB. The State calculated a CO MVEB for 2019 and beyond and also applied a selected amount of the available safety margin to the 2019 and beyond transportation conformity MVEB. We have determined that all the revisions noted above are Federally-approvable, as described further below.

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

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

The Utah Air Quality Board (UAQB) held a public hearing for the revised Salt Lake City CO maintenance plan, the revised Salt Lake County vehicle inspection and maintenance program, and the revisions to Rule R307-110-12 and Rule R307-110-33 on August 18, 2004. The revised plan elements and rules were adopted by the UAQB on October 6, 2004. The revised CO maintenance plan and Rule R307-110-12 became State effective on December 2, 2004 and the revised vehicle inspection and maintenance program and Rule R307-110-33 became State effective on October 7, 2004. The Governor submitted these SIP revisions to us on October 19, 2004. Additional administrative materials were submitted to us by the State on March 3, 2005.

We have evaluated the Governor's submittal for these SIP revisions and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that the submittals were administratively and technically complete. Our completeness determination was sent on March 22, 2005, through a letter from Robert E.

Roberts, Regional Administrator, to Governor Jon Huntsman Jr.

IV. EPA's Evaluation of the Revised Maintenance Plan

EPA has reviewed the State's revised maintenance plan for the Salt Lake City attainment/maintenance area and believes that approval is warranted. The following are the key aspects of this revision along with our evaluation of each:

(a) The State has air quality data that show continuous attainment of the CO NAAQS.

As described in 40 CFR 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. The January 21, 1999 maintenance plan relied on ambient air quality data from 1993 through 1997. In our consideration of the revised Salt Lake City maintenance plan, submitted by the Governor on October 19, 2004, we reviewed ambient air quality data from 1993 through 2004. The Salt Lake City area shows continuous attainment of the CO NAAQS from 1993 to present. All of the above-referenced air quality data are archived in our Air Quality System (AQS).

(b) Using the MOBILE6.2 emission factor model, the State revised the attainment year inventory (1993) and provided projected emissions inventories for the years 2004, 2005, 2008, 2011, 2014, 2017, and 2019.

The revised maintenance plan that the Governor submitted on October 19, 2004, includes comprehensive inventories of CO emissions for the Salt Lake City area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. More detailed descriptions of the revised 1993 attainment year inventory, and the projected emissions inventories for 2004, 2005, 2008, 2011, 2014, 2017, and 2019, are documented in the maintenance plan in section IX.C.7.b entitled "Emission Inventories and Maintenance Demonstration," and in the State's Technical Support Document (TSD). The State's submittal contains emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures

from the 1993 attainment year and the projected years are provided in Table IV—1 below.

TABLE IV—1
[Summary of CO emissions in tons per day for the Salt Lake City area]

| Source category | 1993 | 2004 | 2005 | 2008 | 2011 | 2014 | 2017 | 2019 |
|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|
| Point* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Area | 15.34 | 7.57 | 7.54 | 7.48 | 7.50 | 7.49 | 7.42 | 7.34 |
| Non-Road | 34.84 | 38.52 | 39.23 | 41.13 | 43.08 | 45.02 | 47.01 | 48.37 |
| | 295.21 | 176.14 | 168.66 | 130.01 | 118.19 | 110.30 | 106.35 | 104.08 |
| Total | 345.39 | 222.23 | 215.43 | 178.62 | 168.77 | 162.81 | 160.78 | 159.79 |

*There were no major CO point sources in the Salt Lake City maintenance area; the State included point source emissions in the Area source category.

The revised mobile source emissions show that the largest change from the original January 21, 1999 maintenance plan and this is primarily due to the use of MOBILE6.2 instead of MOBILE5a. The MOBILE6.2 modeling information is contained in the State’s TSD (see “Mobile Source 1993 Base Year Inventory Using MOBILE6.2,” pages 2.b.ii.5–1 through 2.b.ii.5–4; and “Mobile Source Projection Year Inventories Using MOBILE6.2, pages 2.c.iv–1 through 2.c.iv–4) and on a compact disk produced by the State (see “Supplemental Mobile Source Data (CD-ROM),” section 2.d.). A copy of the State’s compact disk is available upon request to EPA. The compact disk contains much of the modeling data, MOBILE6.2 input-output files, fleet makeup, MOBILE6.2 input parameters, and other information, and is included with the docket for this action. Other revisions to the mobile sources category resulted from revised vehicle miles traveled (VMT) estimates provided to the State by the Wasatch Front Regional Council (WFRC) which is the metropolitan planning organization (MPO) for the Salt Lake City area. In summary, the revised maintenance plan and State TSD contain detailed emission inventory information that was prepared in accordance with EPA guidance and is acceptable to EPA.

(c) The State revised the January 21, 1999 Salt Lake City maintenance plan.

The January 21, 1999 CO maintenance plan utilized the then applicable EPA mobile sources emission factor model, MOBILE5a. On January 18, 2002, we issued policy guidance for States and local areas to use to develop SIP revisions using the updated version of the model, MOBILE6. The policy guidance was entitled “Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity” (hereafter, January 18, 2002 MOBILE6 policy). Additional policy guidance regarding EPA’s MOBILE

model was issued on November 12, 2002, which notified Federal, State, and local agencies that the updated MOBILE6.2 model was now available and was the recommended version of the model to be used. We note that the State used the MOBILE6.2 model to revise the Salt Lake City maintenance plan.

Our January 18, 2002, MOBILE6 policy allows areas to revise their motor vehicle emission inventories and transportation conformity MVEBs using the MOBILE6 model without needing to revise the entire SIP or completing additional modeling if: (1) The SIP continues to demonstrate attainment or maintenance when the MOBILE5-based motor vehicle emission inventories are replaced with MOBILE6 base year and attainment/maintenance year inventories and, (2) the State can document that the growth and control strategy assumptions for non-motor vehicle emission sources continue to be valid and minor updates do not change the overall conclusion of the SIP. Our January 18, 2002 MOBILE6 policy also speaks specifically to CO maintenance plans on page 10 of the policy. The first paragraph on page 10 of the policy states “* * * if a carbon monoxide (CO) maintenance plan relied on either a relative or absolute demonstration, the first criterion could be satisfied by documenting that the relative emission reductions between the base year and the maintenance year are the same or greater using MOBILE6 as compared to MOBILE5.”

The State could have used the streamlined approach described in our January 18, 2002 MOBILE6 policy to update the Salt Lake City carbon monoxide MVEBs. However, the Governor’s October 19, 2004 SIP submittal instead contained a completely revised maintenance plan and maintenance demonstration for the Salt Lake City area. That is, all emission source categories (point, area, non-road,

and on-road mobile) were updated using the latest versions of applicable models (including MOBILE6.2), transportation data sets, emissions data, emission factors, population figures and other demographic information. We have determined that this fully revised maintenance plan SIP submittal exceeds the requirements of our January 18, 2002 MOBILE6 policy and, therefore, our January 18, 2002 MOBILE6 policy is not relevant to our approval of the revised maintenance plan and its MVEBs.

As discussed above, the State prepared a revised attainment year inventory for 1993, and new emission inventories for the years 2004, 2005, 2008, 2011, 2014, 2017 and 2019. The results of these calculations are presented in Table 3 “Emissions Projections for Interim Years” on page 5 of the revised Salt Lake City maintenance plan (Utah SIP Section IX, Part C.7) and are also summarized in our Table IV–1 above. In addition, we note that the State modified the Salt Lake County I/M program to specify that vehicles less than six years old are to have their emissions tested every other year instead of annually (see our discussion and evaluation in section VI below.)

The State performed an analysis of this relaxation of the Salt Lake I/M program and determined that this change could be implemented for Salt Lake County, beginning in 2005, without jeopardizing maintenance of the CO NAAQS. As noted below in section VI, we reviewed the State’s methodology and analysis and we have determined they are acceptable. The effects of this I/M rule relaxation were incorporated into the State’s mobile sources modeling with MOBILE6.2, as applicable to the years 2005, 2008, 2011, 2014, 2017, and 2019, and these results are reflected in the Table 3 of the maintenance plan and in our Table IV–1 above.

We have determined that the State has demonstrated, using MOBILE6.2, that mobile source emissions continuously decline from 1993 to 2019 and that the total CO emissions from all source categories, projected for years 2004, 2005, 2008, 2011, 2014, 2017 and 2019, are all below the 1993 attainment year level of CO emissions. Therefore, we are approving the revised maintenance plan as it demonstrates maintenance of the CO NAAQS from 1993 through 2019, while allowing the I/M relaxations from the revisions to the Salt Lake County I/M program.

(d) Monitoring Network and Verification of Continued Attainment.

Continued attainment of the CO NAAQS in the Salt Lake City area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in section IX.C.7.e: "Monitoring Network/Verification of Continued Attainment" of the revised Salt Lake City CO maintenance plan. In section IX.C.7.e, the State commits to continue the operation of the CO monitor in the Salt Lake City area, in accordance with the provisions of 40 CFR 58, and to annually review this monitoring network and gain EPA approval before making any changes.

Also, in section IX.C.7.e and IX.C.7.f, the State commits to track mobile sources' CO emissions (which are the largest component of the inventories) through the ongoing regional transportation planning process that is done by the WFRC. Since regular revisions to Salt Lake City's transportation improvement programs and long range transportation plans must go through a transportation conformity finding, the State will use this process to periodically review the Vehicle Miles Traveled (VMT) and mobile source emissions projections used in the revised maintenance plan. This regional transportation conformity process is conducted by WFRC in coordination with Utah's Division of Air Quality (UDAQ), the UAQB, the Utah Department of Transportation (UDOT) and EPA.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that our final rulemaking approval renders the State's commitments federally enforceable.

(e) 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.C.7.f of the revised maintenance plan, the contingency measures for the Salt Lake City area will be triggered by a violation of the CO NAAQS. However, the State approaches the development and implementation of contingency measures from a two-step process; first, upon an exceedance of the CO NAAQS and second, upon a violation of the CO NAAQS.

The UDAQ will notify the Salt Lake City government and EPA of an exceedance of the CO NAAQS generally within 30, but no more than 45 days. Upon notification of a CO exceedance, the UDAQ in coordination with the WFRC, will begin evaluating and developing potential contingency measures that are intended to correct a violation of the CO NAAQS. This process will be completed within six months of the notification that an exceedance of the CO NAAQS has occurred. If a violation of the CO NAAQS has occurred, a public hearing process will begin at the local and State levels. Should the UAQB conclude that the implementation of local measures will prevent further exceedances or violations of the CO NAAQS, the UAQB may approve or endorse local measures without adopting State requirements. If, however, the UDAQ decides locally-adopted contingency measures are inadequate, the UDAQ will recommend to the UAQB that they instead adopt State-enforceable measures as deemed necessary to address the current violation(s) and prevent additional exceedances or violations. Regardless of whether the selected contingency measures are local- or State-adopted, the necessary contingency measures will be implemented within one year of a CO NAAQS violation. The State also indicates in section IX.C.7.f that any State-enforceable measure will become part of the next revised maintenance plan submitted for EPA approval.

The potential contingency measures identified in section IX.C.7.f(3) of the revised Salt Lake City CO maintenance plan include: (1) A return to annual inspections for all vehicles; (2) improvements to the current I/M program in the Salt Lake City area; (3) mandatory employer-based travel reduction programs as allowed by statute; (4) and other emission control measures appropriate for the area.

Based on the above, we find that the contingency measures provided in the State's revised Salt Lake City CO maintenance plan are sufficient and continue to meet the requirements of section 175A(d) of the CAA.

(f) Subsequent Maintenance Plan Revisions.

Section IX.C.7.g of the State's revised maintenance plan states that:

"No maintenance plan revision will be needed after 2019, as that is the 20th year following EPA approval of the original maintenance plan. No further maintenance plan is needed after successful maintenance of the standard for 20 years. However, the State will update the Plan if conditions warrant."

This is essentially a correct interpretation of the length of time that an area is required to demonstrate maintenance of the CO NAAQS as provided in sections 175A(a) and 175A(b) of the CAA. Although this language in section IX.C.7.g of the revised Salt Lake City CO maintenance plan does not address the specific requirements for the submittal of a revised maintenance plan as stated in section 175A(b) of the CAA, we have concluded it is sufficient to meet the intent of section 175A(b).

The requirement for a subsequent maintenance plan submittal appears in section 175A(b) of the CAA which states "8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection (a)." As EPA redesignated the Salt Lake City CO nonattainment area to attainment on January 21, 1999, a subsequent maintenance plan submittal from the State, to address the requirements of section 175A(b) of the CAA, would normally be submitted to us by January 21, 2007. However, as the Governor's October 19, 2004 submittal of the revised Salt Lake City CO maintenance plan provides a sufficiently robust maintenance demonstration through 2019, we find that this revised maintenance plan addresses the requirements of section 175A(b) of the CAA.

Regardless of the requirements of section 175(A) of the CAA, though, other sections of the CAA, presently in place or adopted in the future, may require the State to revise the maintenance plan and/or Utah SIP more generally, to ensure that the area continues to meet the CO NAAQS. Section 110(a)(1) of the CAA is an example of such a provision. Also, we interpret the quoted statement above as merely indicating that section 175A does not require a further maintenance plan revision after 2019; we do not interpret it to mean that the maintenance plan will automatically terminate after 2019. EPA's

longstanding interpretation is that SIP provisions remain in place until EPA approves a revision to such provisions. The only exception is if the SIP contains explicit language that some or all of its provisions will terminate upon a specific future date. The maintenance plan does not contain such explicit language. Based on our interpretation, section IX.C.7.g of the State's revised maintenance plan is acceptable to us.

Based on our review and evaluation of the components of the revised Salt Lake City CO maintenance plan, as discussed in our items IV.(a) through IV.(f) above, we have concluded that the State has met the necessary requirements in order for us to approve the revised Salt Lake City CO maintenance plan.

V. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation (40 CFR part 93) requires a demonstration that emissions from the long range transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). 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 or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

With respect to maintenance plans, our conformity regulation requires that MVEB(s) must be established for the last year of the maintenance plan and may be established for any other years deemed appropriate (40 CFR 93.118). For transportation plan analysis years after the last year of the maintenance plan (in this case 2019), a conformity determination must show that emissions are less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the implementation plan. EPA's conformity regulation (40 CFR 93.124) also allows the implementation plan to quantify explicitly the amount by which motor vehicle emissions could be higher while still demonstrating compliance with the maintenance requirement. The implementation plan can then allocate some or all of this additional "safety

margin" to the emissions budget(s) for transportation conformity purposes.

Section IX.C.7.d "Mobile Source Carbon Monoxide Emissions Budget for Transportation Conformity" of the revised Salt Lake City CO maintenance plan briefly describes the applicable transportation conformity requirements, provides MVEB calculations, identifies "safety margin," and indicates that the UAQB elected to apply some of the "safety margin" to the MVEB(s) for 2005 and 2019.

In section IX.C.7.d of the revised maintenance plan, the State evaluated two MVEBs: A budget for 2005, and a budget applicable to the maintenance year 2019. For the 2019 MVEB, the State subtracted the total estimated 2019 emissions (from all sources) of 159.79 Tons Per Day (TPD) from the 1993 attainment year total emissions of 345.39 TPD. This produced a "safety margin" of 185.60 TPD. The State then reduced this "safety margin" by 11.06 TPD. The identified "safety margin" of 174.54 TPD for 2019 was then added to the estimated 2019 mobile sources emissions, 104.08 TPD, to produce a 2019 MVEB of 278.62 TPD. For the 2005 MVEB, the State subtracted the total estimated 2005 emissions (from all sources) of 215.43 TPD from the 1993 attainment year total emissions of 345.39 TPD. This produced a "safety margin" of 129.96 TPD. The State then reduced this "safety margin" by 20 TPD. The identified "safety margin" of 109.96 TPD for 2005 was then added to the estimated 2005 mobile sources emissions, 168.66 TPD, to produce a 2005 MVEB of 278.62 TPD.

As noted above, the Governor submitted the original Salt Lake City CO maintenance plan to us on December 9, 1996 and we approved it on January 21, 1999 (see 64 FR 3216.) This original maintenance plan demonstrated maintenance of the CO NAAQS through 2006. While our conformity rule (see 40 CFR part 93) does not require a MVEB for years other than the last year of the maintenance period, states have the option to establish MVEBs for other years too. The State's December 9, 1996, maintenance plan established MVEB(s) for 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2016. As noted in our January 21, 1999 action, the State also alluded to a MVEB for the period 2007 to 2016. Because the maintenance plan did not adequately identify such a

MVEB, we approved no MVEB for 2007 to 2016. We stated in our January 21, 1999 action that the 2006 MVEB would be used for any transportation conformity determinations for the period 2007 through 2015 (see 64 FR 3216, pages 3221 and 3222.)

The revised Salt Lake City CO maintenance plan, that was submitted to us on October 19, 2004, states, "This plan retracts the emissions budgets for 2005–2016 that were included in the original Salt Lake City Carbon Monoxide Maintenance Plan submitted to EPA in 1996." EPA interprets this language to mean that the State is retracting the 1996 maintenance plan budgets for years 2005, 2006 and 2016. The October 19, 2004 maintenance plan establishes new MVEBs for 2005 and 2019 based on MOBILE6.2. In part, the State chose these budget years and retracted budgets for other years based on input from Region 8.

However, Region 8 recently discovered that we misinterpreted the CAA requirements regarding initial maintenance plan MVEBs and mistakenly advised the State that it could entirely remove a MVEB for 2006 from the maintenance plan. Instead, EPA's interpretation is that a MVEB for the last year of the first maintenance period must be retained as a specific MVEB year when a second maintenance plan is submitted to meet the requirements of section 175A(b) of the CAA. We should have advised the State to retain a MVEB for 2006.¹

As described below, however, we believe the lack of a 2006 MVEB in this case is not significant and that approval of the revised maintenance plan and MVEBs is still warranted. In section IV of this action, we describe how the revised Salt Lake City CO maintenance plan meets our criteria for approval and that the State has demonstrated maintenance of the CO NAAQS for the entire maintenance period through 2019. Essentially, the State demonstrated that total CO emissions in future years through 2019 will be less than the 1993 attainment year level of CO emissions. Table V–1 below, which is taken from Table 3 of section IX.C.7.b of the State's revised maintenance plan, illustrates this point. We have also included in this table the available safety margin that the State could have applied to the MVEB in each projection year.

¹ This doesn't mean the State would have had to retain the same exact budget. With a proper

demonstration, a state can revise the budget for the last year of the first 10-year maintenance period.

TABLE V-1
[All emissions are in tons per day of CO]

| Year | Area sources | On-road mobile sources | Non-road sources | Point sources* | Total emissions | Available safety margin |
|------------|--------------|------------------------|------------------|----------------|-----------------|-------------------------|
| 1993 | 15.34 | 295.21 | 34.84 | 0 | 345.39 | |
| 2004 | 7.57 | 176.14 | 38.52 | 0 | 222.23 | 123.16 |
| 2005 | 7.54 | 168.66 | 39.23 | 0 | 215.43 | 129.96 |
| 2008 | 7.48 | 130.01 | 41.13 | 0 | 178.62 | 166.77 |
| 2011 | 7.50 | 118.19 | 43.08 | 0 | 168.77 | 176.62 |
| 2014 | 7.49 | 110.30 | 45.02 | 0 | 162.81 | 182.58 |
| 2017 | 7.42 | 106.35 | 47.01 | 0 | 160.78 | 184.61 |
| 2019 | 7.34 | 104.08 | 48.37 | 0 | 159.79 | 185.60 |

* The State indicated there were no major point sources of CO and that point source emissions were included with the Area Sources category.

Based on the information from Table V-1 above, Table V-2 below illustrates the State-specified MVEBs for 2005 and 2019. It also shows that, based on available safety margin, the State could

have specified the same budget as it specified for 2005 and 2019 in any of the other projection years—278.62 tons per day of CO. The emissions estimates for 2008, 2011, 2014 and 2017 are

provided in Table V-2 for illustrative purposes only; emissions estimates for these years do not represent MVEBs.

TABLE V-2
[(All emissions are in tons per day of CO) (MVEBs are shown in bold)]

| Year | On-road source emissions | Available safety margin | On-road mobile source emissions with allocated safety margins | Remaining safety margin |
|---------------------|--------------------------|-------------------------|---------------------------------------------------------------|-------------------------|
| 2005** | 168.66 | 129.96 | 278.62 | 20.00 |
| 2008 | 130.01 | 166.77 | 278.62 | 18.16 |
| 2011 | 118.19 | 176.62 | 278.62 | 16.19 |
| 2014 | 110.30 | 182.58 | 278.62 | 14.26 |
| 2017 | 106.35 | 184.61 | 278.62 | 12.34 |
| 2019** | 104.08 | 185.60 | 278.62 | 11.06 |

** Emissions estimates for 2005 and 2019 represent MVEBs established in the CO maintenance plan.

It is evident from the emissions trends from 2005 forward, and from the amount of remaining safety margin in 2005 and 2008, that the State could have established 278.62 tons per day of CO as the 2006 MVEB too. In other words, the 2005 MVEB is reasonably representative of 2006.

A 2006 MVEB would have applied for any conformity determination for analysis years between 2006 and 2019. The 2005 MVEB must be used for any conformity determination for analysis years between 2005 and 2019. (See 40 CFR 93.118(b)(2)(iv).) In other words, the elimination of the 2006 MVEB has limited, if any, practical effect. For a conformity analysis of any transportation plan or program, there will still be a quantitative budget analysis for any analysis years between 2005 and 2019, as required by 40 CFR 93.118(b), and conformity will have to be shown to a MVEB of 278.62 tons per day of CO, the same MVEB the State could have specified for 2006.

We also note that the 2005 MVEB is reasonably representative of 2009. This was the year for which EPA extracted

data from the State's TSD in its January 21, 1999 action to meet the 10-year maintenance requirement in section 175A(a) of the CAA. See 64 FR 3216. Normally, the initial maintenance plan would have established a MVEB for 2009, and the current maintenance plan should then have included a MVEB for 2009. However, Table V-2 above shows that a budget identical to the 2005 MVEB of 278.62 tons per day of CO could have also been established in 2008 and 2011. Based on our discussion above relative to MVEB for 2005 and 2006, and the information from Table V-2, it is evident that the 2005 MVEB could have been established for 2009 as well. For the same reasons that the lack of a 2006 MVEB has limited, if any, practical effect, the lack of a 2009 MVEB also has limited, if any, practical effect.

Pursuant to § 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the revised Salt Lake City CO maintenance plan's emission budget for 2019 for

adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Utah Division of Air Quality May 2, 2005, and was announced in the **Federal Register** on May 31, 2005 (70 FR 30946). As a result of this adequacy finding, the 2019 budget took effect for conformity determinations in the Salt Lake City area on June 15, 2005. However, we note that we are not bound by this determination in acting on the revised Salt Lake City CO maintenance plan.

We have concluded that the State has satisfactorily demonstrated continued maintenance of the CO NAAQS while using transportation conformity MVEBs of 278.62 TPD for 2005 and 2019. Therefore, we are approving the transportation conformity MVEB of 278.62 TPD of CO, for the Salt Lake City attainment/maintenance area, for 2005 and 2019.

VI. EPA's Evaluation of the Revised Vehicle Inspection and Maintenance Program

In developing the Salt Lake City revised CO maintenance plan, the State revised Section X, Part C, of the Utah State Implementation Plan, "Vehicle Inspection and Maintenance Program, Salt Lake County," to go from an annual to an every-other-year testing program for vehicles less than six years old.

The Salt Lake County I/M program revisions adopted by the UAQB on October 6, 2004, State effective on October 7, 2004, and submitted by the Governor on October 19, 2004, reflect the changes in State law, section 41-6-163.6, Utah Code Annotated, for implementing the I/M program in Salt Lake County. After EPA approval, this State provision will become part of the Federally-enforceable SIP. The revised maintenance plan reflects the changes in the Salt Lake County I/M program in that mobile source CO emissions were calculated for the Salt Lake City area for the years 2005, 2008, 2011, 2014, 2017, and 2019, assuming every-other-year testing for vehicles less than six years old. Even with this relaxation of the I/M requirements, the emission projections indicate that the Salt Lake City area will maintain the CO NAAQS from 2005 through 2019.

We note a discrepancy between the Salt Lake County I/M program and Appendix 1.1, "Salt Lake City-County Health Department Regulation #22A Governing the Motor Vehicle Emissions Inspection Maintenance Program for the Control of Air Contaminant Emissions from Motor Vehicles, March 5, 1998." In Regulation #22A, section 2.0 "Purpose" and section 6.0 "General Provisions" indicate that the Director and the Board of County Commissioners can require either an annual or biennial program. The maintenance demonstration is based on an annual program for vehicles six years or older and a biennial program for vehicles less than six years old. Any decision by the Director and the Board of County Commissioners to expand the biennial program to other vehicles will only be federally effective upon EPA approval as a SIP revision.

We have evaluated and determined that the Salt Lake County I/M program revisions described above are acceptable to us and we are approving them now in conjunction with this action.

VII. Consideration of Section 110(l) of the CAA

Section 110(1) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning

attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The revised Salt Lake City CO maintenance plan and Salt Lake County I/M program will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

VIII. Final Action

In this action, EPA is approving the revised Salt Lake City CO maintenance plan, the revisions to Utah's Rule R307-110-12 (which incorporates the revised CO maintenance plan into the Utah Rules,) the revised transportation conformity CO motor vehicle emission budget for the years 2005 and 2019, the revised Salt Lake County vehicle inspection and maintenance program, and the revisions to Utah's Rule R307-110-33 (which incorporates the revised Salt Lake County vehicle inspection and maintenance program into the Utah Rules,) all as submitted by the Governor on October 19, 2004.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective September 30, 2005 without further notice unless the Agency receives adverse comments by August 31, 2005. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211,

"Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 8, 2005.

Robert E. Roberts,
Regional Administrator, Region VIII.

■ 40 CFR part 52 is amended to read as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(60) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(60) Revisions to the Utah State Implementation Plan, Section IX, Part C.7, "Carbon Monoxide Maintenance Provisions for Salt Lake City," as submitted by the Governor on October 19, 2004; revisions to UACR R307-110-12, "Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide," as submitted by the Governor on October 19, 2004; revisions to the Utah State Implementation Plan, Section X, "Vehicle Inspection and Maintenance Program, Part C, Salt Lake County," as submitted by the Governor on October 19, 2004; and revisions to UACR R307-110-33, "Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County," as submitted by the Governor on October 19, 2004.

(i) Incorporation by reference.

(A) UACR R307-110-12, as adopted by the Utah Air Quality Board on October 6, 2004, effective December 2, 2004. This incorporation by reference of UACR R307-110-12 only extends to the following Utah SIP provisions and excludes any other provisions that UACR R307-110-12 incorporates by reference: Section IX, Part C.7, "Carbon Monoxide Maintenance Provisions for Salt Lake City," adopted by Utah Air Quality Board on October 6, 2004, effective December 2, 2004.

(B) UACR R307-110-33, "Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County," as adopted by the Utah Air Quality Board on October 6, 2004, effective October 7, 2004.

[FR Doc. 05-15150 Filed 7-29-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7947-1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Rhinehart Tire Fire Dump Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of deletion of the Rhinehart Tire Fire Dump Superfund Site (Site), located near Winchester

(Frederick County), Virginia, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the Commonwealth of Virginia, through the Virginia Department of Environmental Quality (VDEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 30, 2005, unless EPA receives adverse comments by August 31, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Andrew Palestini, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103-2029, Palestini.andy@epa.gov, (215) 814-3233.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the site information repositories located at: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street (2nd Floor), Philadelphia, PA 19103-2029, (215) 814-5254, Monday through Friday, 8 a.m. to 5 p.m.; and, in Virginia, at the Handley Library, 100 West Piccadilly Street, Winchester, VA 22601, (540) 662-9041 ext. 23. Hours of operation are: Monday through Wednesday, 10 a.m. to 8 p.m. and Thursday through Saturday, 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Andrew Palestini, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103-2029, Palestini.andy@epa.gov, (215) 814-3233 or 1-800-553-2509.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

I. Introduction

EPA Region III is publishing this direct final notice of deletion of the