Dated: July 25, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(99) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(99) Revisions to the Pennsylvania implementation plan for Allegheny County pertaining to the operation and maintenance of certain air pollution control devices at USX Corporation's Clairton Works submitted on April 26, 1995 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by reference.

(A) Letter of April 26, 1995 from Mr. James M. Seif, Secretary, Pennsylvania Department of Environmental Resources transmitting a SIP revision for Allegheny County regarding USX Corporation's Clairton Works.

(B) Portions of an enforcement order and agreement entered into by and between the Allegheny County Health Department and USX Corporation on November 17, 1994 (Enforcement Order No. 200 Upon Consent). Specifically, the introductory section (pages 1–2), the section entitled, ''I. Order'' (pages 2–6), and attachments C and D to the enforcement order and agreement which list the relevant pollution control equipment. The Agreement was effective on November 17, 1994.

(ii) Additional material.

(A) Remainder of Pennsylvania's December 9, 1993 submittal.

[FR Doc. 95–20484 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 146–1–7134a; FRL–5272–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Nonattainment Area, Transportation Control Measure Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the California State Implementation Plan (SIP) for ozone for the San Joaquin Valley, which was submitted to EPA on March 2, 1995. This direct final approval action approves the ''Railroad Grade Separations'' transportation control measure (TCM) adopted by the State of California on January 13, 1995. This TCM supersedes the ''Controls on Extended Vehicle Idling'' transportation control measure (TCM) in the federally-approved 1982 California ozone SIP. The intended effect of direct final approval of this SIP revision is to control emissions of ozone precursors and carbon monoxide in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or 1990 Act).

DATES: This direct final action is effective on October 17, 1995 unless adverse or critical comments are received by September 18, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State submittal and EPA's technical support document are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted SIP revision are available for inspection at the following locations:

Mobile Sources Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), ANR 443, 401 ''M'' Street SW., Washington, DC 20460

California Air Resources Board, 2020 ''L'' Street, Sacramento, CA 92123

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolomne Street, Suite #200, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: Deborah Schechter, Mobile Sources Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1227.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 1982, the State of California submitted the 1982 ozone and carbon monoxide (CO) SIP for the San Joaquin County portion of the San Joaquin Valley nonattainment area. EPA approved California's 1982 ozone and CO SIP for San Joaquin County and published the **Federal Register** document on December 20, 1983 (48 FR 56215). The 1982 San Joaquin County SIP, or Air Quality Management Plan (AQMP), was adopted by the San Joaquin County Board of Supervisors on June 22, 1982. The AQMP included a transportation control measure (TCM) designated as ''Controls on Extended Vehicle Idling''. This TCM was intended to reduce vehicular emissions from extended idling at railroad crossings by requiring a signing system at all railroad crossings asking motorists to turn off their engines for waits longer than one minute. Site design improvements during the planning stage to mitigate circumstances where excessive idling could occur were also required in this TCM. This TCM was never implemented.

On March 20, 1991, the air pollution control districts in the San Joaquin Valley, including the San Joaquin County district, merged into the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). The SJVUAPCD was authorized to exercise all powers and carry out all duties of air pollution control districts within the Valley as provided by state and federal law.

On March 2, 1995, the California Air Resources Board (CARB) submitted to EPA a revision to the SIP for ozone for the San Joaquin Valley nonattainment area entitled San Joaquin Valley Transportation Control Measure Replacement. The SIP revision was adopted by the SJVUAPCD on September 14, 1994 and later by CARB on January 13, 1995. The SIP revision replaces the ''Controls on Extended Vehicle Idling'' TCM with the ''Railroad Grade Separations'' TCM. In its March 2, 1995 letter to EPA, CARB requested prompt handling of the submittal because of its implications for conformity determinations.

In a letter to the State dated July 24, 1995, EPA found the submittal of the San Joaquin Valley Transportation Control Measure Replacement complete.

II. Summary and Evaluation of SIP Revision

Section 176(c) of the Clean Air Act (CAA) prohibits any metropolitan planning organization (MPO) designated under section 134 of title 23 of the United States Code, from approving any transportation project, program, or plan which does not conform to a SIP approved under section 110 of the CAA. The federal transportation conformity regulation (40 CFR Part 51, subpart T) implements the transportation-related requirements of section 176(c). Section 51.418 of the regulation requires the

transportation plan and program to provide for the timely implementation of transportation control measures (TCMs) from the applicable federally-approved implementation plan. A TCM is defined in section 51.392 as any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentration of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions.

Under the federal transportation conformity rule, before an MPO or the Department of Transportation (DOT) can approve a transportation plan or program, a conformity determination must be made which shows timely implementation of all of the TCMs in the approved SIP and demonstrates that all obstacles to TCM implementation have been removed. In the case of San Joaquin County, the TCMs identified in the 1982 SIP must meet the timely implementation criterion in order for the transportation plan and program to be approved and projects to be funded. Because the ''Controls on Extended Vehicle Idling'' TCM was never implemented and is not expected to be implemented, this TCM cannot be found to meet the criterion of timely implementation.

The preamble to the conformity regulation at 58 FR 62198 states that if the original project sponsor or the cooperative planning process decides not to implement the TCM or decides to replace it with another TCM, a SIP revision which removes the TCM will be necessary before plans and programs may be found in conformity. (In order to be approved by EPA, such a SIP revision must include substitute measures that achieve emissions reductions sufficient to meet all applicable requirements of the CAA, including section 110(l).)

In order to meet the requirement of the conformity regulation for timely implementation of TCMs and to enable FHWA to approve future transportation plans and programs for San Joaquin County, the San Joaquin County Council of Governments (SJCOG), the SJVUAPCD, and the State of California have opted to revise the SIP to delete the ''Controls on Extended Vehicle Idling'' TCM and replace the measure with an alternative TCM for which timely implementation can be demonstrated. On March 2, 1995, California submitted a SIP revision for San Joaquin County which replaces the ''Controls on Extended Vehicle Idling'' TCM with the ''Railroad Grade Separations'' TCM.

The TCM includes two railroad grade separations to be constructed in the Stockton Urbanized Area:

—Hammer Lane at Southern Pacific RR (scheduled completion in 1997)
—Hammer Lane at Union Pacific RR (scheduled completion in 1997)

The SIP revision anticipated the following emissions reductions from these projects: 1.2 kg total organic gases (TOG) per day, 4.0 kg nitrogen oxides (No_X) per day, and 20 kg carbon monoxide (CO) per day.

The 1982 SIP took credit only for the CO emissions reductions expected from the implementation of the ''Controls on Extended Vehicle Idling'' TCM. The expected reduction was 0.017 tons/day or 15.4 kg/day of CO in 1987. Thus, the ''Railroad Grade Separations'' TCM is expected to result in greater reductions in CO, TOG, and NO_X than were credited to the ''Controls on Extended Vehicle Idling'' TCM.

In addition, the SJCOG and the SJVUAPCD have found that the emissions reductions that would result if the ''Controls on Extended Vehicle Idling'' TCM were implemented today are likely to be less than originally projected. First, the TCM was voluntary. Emissions reductions were calculated based on the assumption that motorists would obey the signs and turn off their engines for waiting times of over one minute, when, in reality, motorists may have kept their engines idling due to a lack of an enforcement mechanism for the measure. In addition, changes in motor vehicle technology have led to a reduced benefit from this TCM. Motor vehicle engine technology has led to reduced idling emissions from today's cars. As a result, shutting off idling vehicles and starting them back up again a few minutes later will result in fewer emissions reductions today than in 1982 when the TCM was included in the SIP.

Because the ''Railroad Grade Separations'' TCM is expected to result in greater emissions reductions than the ''Controls on Extended Vehicle Idling'' TCM, the SIP revision does not weaken the federally-approved 1982 SIP.

III. EPA's Action

This action approves the ''Railroad Grade Separations'' TCM, submitted to EPA by the State of California on March 2, 1995 for inclusion in the California Ozone SIP for the San Joaquin Valley. This TCM supersedes the ''Controls on Extended Vehicle Idling'' TCM in the 1982 SIP. This latter TCM is, therefore, no longer subject to the timely implementation criterion of the conformity regulation. EPA has evaluated the submitted TCM and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, the San Joaquin Valley Transportation Control Measure Replacement SIP revision is being approved under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and (l) and part D.

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

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document published elsewhere in this **Federal Register**, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 17, 1995, unless, by September 18, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published elsewhere in this **Federal Register**. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 17,1995.

IV. Regulatory Process

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

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve

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

The OMB has exempted this action from review under Executive Order 12866.

V. Unfunded Mandates

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

Through submission of this state implementation plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182(b) of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 26, 1995.

Jeff Zelikson,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(223) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(223) Revised ozone transportation control measure (TCM) for the San Joaquin Valley submitted on March 2, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Railroad Grade Separations TCM, adopted on September 14, 1994.

[FR Doc. 95–20481 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[TN 141–1–6986a; FRL–5277–7]

Clean Air Act Approval and Promulgation of Redesignation of the Rossville Area of Fayette County, Tennessee, to Attainment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) for the purpose of redesignating the portion of Fayette County near Rossville, Tennessee, from nonattainment to attainment status for the lead National Ambient Air Quality Standard (NAAQS).

DATES: This final rule is effective on October 17, 1995 unless adverse or critical comments are received by September 18, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by TDEC may be examined during normal business hours at the following locations:

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

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

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 401 Church Street, L & C Annex, 9th Floor, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: On June 7, 1993, a portion of Fayette County, Tennessee, near Rossville, was designated nonattainment for lead. Since that time, the only source of lead emissions in the area, a facility operated by Ross Metals Inc., has permanently closed, and monitoring data from the area demonstrates that the area is attaining the NAAQS for lead. Section 107(d)(3)(E) of the Clean Air Act (CAA) permits nonattainment areas that have attained the lead NAAQS to be redesignated to attainment provided certain criteria are met. Consequently, the State of Tennessee submitted a request to redesignate the area to attainment.

Section 107(d)(3)(E) of the CAA, as amended in 1990, sets forth the requirements that must be met for a nonattainment area to be redesignated to attainment. It states that an area can be redesignated to attainment if the following conditions are met.

1. The EPA has determined that the lead NAAQS has been attained.

2. The applicable implementation plan has been fully approved by EPA under section 110(k).

3. The EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.

4. The State has met all applicable requirements for the area under section 110 and part D.

5. The EPA has fully approved a maintenance plan, including a