(''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 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1997. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 9, 1997.

Michael V. Peyton,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(157) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(157) The visible emission chapter revisions to the Tennessee SIP which were submitted on October 6, 1994.

(i) Incorporation by reference.

(A) Chapter 1200–3–5 Visible Emissions effective on June 7, 1992.

(ii) Other material. None.

* * * * *

[FR Doc. 97–21699 Filed 8-14-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 128–0043; FRL–5875–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern negative declarations from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) for five source categories that emit oxides of nitrogen (NO_X): Nitric and Adipic Acid Manufacturing Plants, Cement Manufacturing Plants, Asphalt Batch Plants, Iron and Steel Manufacturing Plants, and Driers. The SJVUAPCD has certified that these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan. The intended effect of approving these negative declarations is to meet the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on October 14, 1997 unless adverse or critical comments are received by September 15, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be submitted to Julie Rose at the Region IX office listed below. Copies of the submitted negative declarations are available for public inspection at EPA's Region IX office and also at the following locations during normal business hours.

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Air Docket (6102), U.S. Environmental Protection Agency, 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 92123–1095

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1184.

SUPPLEMENTARY INFORMATION:

I. Applicability

The revisions being approved as additional information for the California SIP include five negative declarations from the SJVUAPCD regarding the following source categories: (1) Nitric and Adipic Acid Manufacturing Plants, (2) Cement Manufacturing Plants, (3) Asphalt Batch Plants, (4) Iron and Steel Manufacturing Plants, and (5) Driers. These negative declarations were submitted by the California Air Resources Board (CARB) to EPA on October 17, 1994.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101–549, 104 Stat.

2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rulemaking entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_x Supplement) which describes the requirements of section 182(f). The NO_x Supplement should be referred to for further information on the NO_x requirements and is incorporated into this document by reference. Section 182(f) of the Clean Air Act requires states to apply the same requirements to major stationary sources of NO_x (''major'' as defined in section 302 and section 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The San Joaquin Valley Air Basin (SJVAB) is classified as a serious nonattainment area for ozone.[1] The SJVAB area is subject to the RACT requirements of section 182(b)(2), cited above.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technique guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x category since enactment of the CAA. EPA has issued guidance documents in the form of Alternative Control Techniques for nine NO_x source categories: (1) Nitric and Adipic Acid Manufacturing Plants, (2) Stationary Combustion Gas Turbines, (3) Process Heaters, (4) Stationary Internal Combustion Engines, (5) Utility Boilers, (6) Cement Manufacturing, (7) Glass Manufacturing, (8) Iron and Steel Plants, and (9) Industrial, Commercial, and Institutional Boilers.

The five negative declarations were adopted on September 14, 1994 and submitted by the State of California on October 17, 1994. The submitted negative declarations were found to be complete on December 1, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V.[2] These negative declarations are being finalized for approval into the SIP as additional information.

This document addresses EPA's direct final action for the SJVUAPCD negative declarations for: (1) Nitric and Adipic Acid Manufacturing Plants, (2) Cement Manufacturing Plants, (3) Asphalt Batch Plants, and (4) Iron and Steel Manufacturing Plants, and (5) Driers. The submitted negative declarations certify that there are no NO_x sources in these source categories located inside SJVUAPCD. Therefore, the determination being evaluated is that there is no need to have RACT rules in the SIP for these source categories at this time.

III. EPA Evaluation and Action

In determining the approvability of a negative declaration, EPA must evaluate the declarations for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

In a Resolution dated September 14, 1994, the SJVUAPCD Board affirmed that the SJVUAPCD does not have any major stationary sources in these source categories located within the federal ozone nonattainment planning area.

EPA has evaluated these negative declarations and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. SJVUAPCD's negative declarations for Nitric and Adipic Acid Manufacturing Plants, Cement Manufacturing Plants, Asphalt Batch Plants, Iron and Steel Manufacturing Plants, and Driers are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 14, 1997, unless, by September 15, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 14, 1997.

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.

IV. Administrative Requirements

A. Executive Order 12866

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.

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, the Administrator certifies 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).

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

[1] The San Joaquin Valley Air Basin retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

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

accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

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 October 14, 1997. 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 1, 1997.

Felicia Marcus,

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 52.222 is being amended by adding paragraph (b)(2) to read as follows:

§ 52.222 Negative declarations.

* * * * *

(b) * * *

(2) San Joaquin Valley Unified Air Pollution Control District.

(i) Nitric and Adipic Acid Manufacturing Plants, Cement Manufacturing Plants, Asphalt Batch Plants, Iron and Steel Manufacturing Plants, and Driers were submitted on October 17, 1994 and adopted on September 14, 1994.

* * * * *

[FR Doc. 97–21694 Filed 8–14–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–028–1028; FRL–5875–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice of the Herculaneum, Missouri, nonattainment area's failure to attain the National Ambient Air Quality Standard (NAAQS) for lead.

SUMMARY: Pursuant to the Clean Air Act (CAA or the Act), the EPA has notified the state of Missouri that the Doe Run-Herculaneum nonattainment area failed to attain the NAAQS for lead (Pb) by June 30, 1995, as required under the provisions of the Act and the Missouri State Implementation Plan (SIP). This notification is based on the EPA's review of monitored air quality data for compliance with the NAAQS for lead. This notice is issued pursuant to the EPA's obligations under sections 179(c)(1) and (2) of the CAA, which require the EPA to make a determination of an area's attainment status following an applicable attainment date, and publish a notice in the **Federal Register** indicating that such a determination has been made. Pursuant to section 179(d)(1) of the CAA, Missouri is required to submit a SIP revision, meeting the applicable provisions of the Act within one year of today's finding.

DATES: This action is effective on September 15, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Royan W. Teter at (913) 551–7609.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA designated the area in the vicinity of the Doe Run Company's primary lead smelter in Herculaneum, Missouri, nonattainment with respect to the NAAQS for lead on November 6, 1991 (56 FR 56694). This designation became effective on January 6, 1992. Missouri initially submitted a SIP revision addressing the nonattainment designation in July 1993. Supplements were submitted in March and November 1994. The EPA approved Missouri's revised SIP on May 5, 1995 (60 FR 22274), establishing June 30, 1995, as the date by which the area was to have attained the NAAQS for lead. Ambient air monitoring data, as shown below, indicate that violations of the lead NAAQS have continued to occur in each calendar quarter subsequent to the attainment date. On March 5, 1997, the EPA published a proposed notice of failure to attain the NAAQS for the Herculaneum, Missouri, nonattainment area (62 FR 10001). The proposed notice detailed the responsibilities of the EPA and the state of Missouri under the CAA and provided the public with an opportunity to comment on the Agency's determination that the Herculaneum area has failed to attain the standard.

Lead Ambient Air Quality Data—Vicinity Of The DOE Run Primary Smelter

Calendar Quarterly Values

(Micrograms of lead per cubic meter of air ($\mu g/m^3$))