Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T09–014 is added to read as follows:

§ 165.T09–014 Safety zone: Lake Erie, Ottawa River, Ohio Washington Township, Ohio.

(a) *Location.* The following area is a temporary safety zone. The waters and adjacent shoreline inside a 420′ radius as extended from position 41 deg.43 min.21 sec. N by 083 deg.28 min.46 sec.W, off the southeast end of the Summit Street Bridge structure. Lake Erie, Ohio. All nautical positions are based on North American Datum of 1983.

(b) *Effective dates.* This regulation is effective between the hours of 2:30 P.M. TO 11 P.M., June 24, 2000, unless terminated earlier by the Captain of the Port.

(c) *Restrictions.* In accordance with the general regulations in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 1, 2000.

David L. Scott,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 00–15055 Filed 6–13–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0029; FRL–6711–9]

Approval and Promulgation of Air Quality Implementation Plan for Utah: Transportation Control Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Utah State Implementation Plan (SIP) that incorporate a new transportation control measure (TCM) in Utah County. Approval of this TCM as part of the Utah SIP means that this measure will receive priority for funding, and that it may proceed in the event of a transportation conformity lapse. We are approving this SIP revision under sections 110(k) and 176 of the Clean Air Act. We give our rationale for approving this SIP revision in this document.

DATES: This rule is effective on August 14, 2000 without further notice, unless EPA receives adverse comment by July 14, 2000. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:

Utah Division of Air Quality, Department of Environmental Quality, 150 North 1950 West, Salt Lake City, Utah, 84114–4820.

FOR FURTHER INFORMATION CONTACT: Jeff Houk, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Telephone number: (303) 312–6446.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''our,'' or ''us'' is used, we mean EPA.

I. What Is EPA Approving Today and Why?

We are approving revisions to the Utah SIP to incorporate a new TCM. Specifically, we are approving revisions to SIP Section XI, ''Other Control Measures for Mobile Sources,'' and a new rule, R307–110–19, that incorporates this section of the SIP into State regulation. The specific TCM incorporated in Section XI is the construction of up to 700 park and ride spaces in Utah County by the year 2006. The SIP revision does not specify a location for these park and ride spaces, but refers to the Mountainland Association of Governments' ''Utah Valley Area Park and Ride Lot Plan,'' which will guide implementation of this measure. Construction of these park and ride spaces is estimated to result in emission reductions of up to 737 pounds per day of carbon monoxide, 175 pounds per day of nitrogen oxides, 75 pounds per day of volatile organic compounds, and 116 pounds per day of particulate matter in the year 2010 (the

Park and Ride Lot Plan does not provide emission reduction estimates for the year 2006). The Park and Ride Lot Plan provides these emission reduction estimates for informational purposes; the State is not incorporating the emission reductions into Utah County's SIPs for carbon monoxide or particulate matter at this time. These park and ride facilities have been included in the transportation plan and transportation improvement program for Utah County.

EPA's transportation conformity rule, 40 CFR 93 subpart A, includes several requirements relating to TCMs (62 FR 43780, August 15, 1997). Section 93.113 of the rule requires that TCMs be funded and implemented on the schedule provided for in the SIP, and that other projects not interfere with the implementation of TCMs. As a result of EPA's approval of this TCM into the SIP, this TCM must be implemented on schedule in order for the Mountainland Association of Governments to be able to make a positive finding of conformity for its long range transportation plan and transportation improvement program. In addition, in the event of a conformity lapse, this TCM is eligible to proceed to construction pursuant to section 93.114(b) of the conformity rule.

II. Opportunity for Public Comments

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve this SIP revision if adverse comments are filed. This rule will be effective on August 14, 2000 without further notice unless we receive adverse comment by July 14, 2000. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements

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. 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 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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. section 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. section 804(2). This rule will be effective August 14, 2000 unless EPA receives adverse written comments by July 14, 2000.

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 August 14, 2000. 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

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Volatile organic compounds.

Dated: June 1, 2000.

Jack McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, of the Code of Federal Regulations are amended 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)(44) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(44) On February 29, 2000, the Governor of Utah submitted revisions to Section XI of the SIP that incorporate a new transportation control measure for Utah County into the SIP and State regulation.

(i) Incorporation by reference.

(A) UACR R307–110–19, Section XI, Other Control Measures for Mobile Sources, as adopted on February 9, 2000, effective February 10, 2000.

(B) Revisions to Section XI of the Utah SIP, Other Control Measures for Mobile Sources, adopted February 9, 2000, effective February 10, 2000.

[FR Doc. 00–14993 Filed 6–13–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

RIN 0925–AA23

Privacy Act of 1974; Proposed Implementation

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is exempting a new system of records, 09–25–0213, ''Administration: Investigative Records, HHS/NIH/OM/OA/OMA,'' from certain requirements of the Privacy Act to protect records compiled in the course of an inquiry and/or investigation and to protect the identity of confidential sources who furnish information to the Government under an express promise that the identity of such source would be held in confidence.

DATES: This final rule is effective on July 14, 2000.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, Rockville, MD 20852, 301–496–2832 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Office of Management Assessment (OMA) assumes the lead responsibility on cases received through the DHHS Office of Inspector General (OIG) hotline that are referred to NIH for action. OMA serves as NIH's central liaison on matters involving the Office of Audit Services, OIG; General Accounting Office; Federal Bureau of Investigation; congressional staff members; etc., related to management controls and audits. OMA also has overall responsibility for all matters related to management controls to prevent fraud, waste, abuse, and conflict of interest or the appearance of these, including the development and implementation of policy and the Annual Management Control Plan and the development of management oversight activity that focuses on early identification and prevention of such occurrences.

To perform these responsibilities, OMA compiles and maintains administrative and investigative records related to alleged or suspected violations of statutes, regulations, and policies governing the conduct of Federal employees, recipients of Federal funding, and others who transact, or seek to transact business with the NIH.

These records contain information related to complaints of incidents, inquiries and investigative findings, administrative and other matters involving complainants, suspects and witnesses, and court dispositions.

The administrative and investigation records are located in the OMA and constitute a ''system of records'' as defined by the Privacy Act.

Under the Privacy Act, individuals have a right of access to information pertaining to them which is contained in a system of records. At the same time, the Act permits certain types of systems to be exempt from some of the Privacy Act requirements. Subsection (k)(2) allows agency heads to exempt a system of records containing investigatory material compiled for enforcement purposes. This exemption is qualified in that if the material results in denial of any right, privilege, or benefit to an individual to which that individual would be entitled by Federal law, the individual must be granted access to the material, unless the access would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. In addition, paragraph (k)(5) permits an agency to exempt material from the individual access, notification, and correction and amendment provisions of the Act where investigatory material is compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or federal contracts if release of the material would cause the identity of a confidential source to be revealed.

Because the administrative and investigative records are compiled by a distinct component of the agency whose principal function is investigations which compile material for law enforcement purposes, the specific exemption (k)(2) requirements are met and the exemption is justified. Investigatory materials are compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or federal contracts in the course of investigations that result from a direct allegation or from suspected violations of statutes, regulations and policies uncovered during an administrative management control review or audit. Investigatory material compiled for the purpose of determining whether applicants are suitable, eligible or qualified justifies the need to invoke the paragraph (k)(5) exemption.

The system contains sensitive investigative records. The release of these records to the subject of the investigation could have a chilling effect on the willingness of informants to provide information freely, not only because of fear of retribution, but because they might hesitate to provide any information other than that of which they are entirely certain. Disclosure could impede ongoing investigations and violate the privacy rights of individuals other than the subject of the investigation, thereby diminishing the ability of OMA to conduct a thorough and accurate investigation. Disclosure of information from these records might also reveal to the subjects of the investigation that their actions are being scrutinized, allowing them the opportunity to prevent detection of illegal activities. Finally, disclosure of information from the records might reveal investigative techniques and thereby jeopardize the integrity of the investigation.

Sources may be reluctant to provide sensitive information unless they can be assured that their identities will not be revealed. These exemptions ensure that: (1) Efforts to obtain accurate and objective information will not be hindered; (2) investigative records will not be disclosed inappropriately; and (3) identities of confidential sources and OMA investigators will be protected. Accordingly, NIH in collaboration with the Department is exempting this system under paragraphs (k)(2) and (k)(5) of the Privacy Act from the notification, access, correction, and amendment provisions of the Privacy Act [paragraphs (c)(3), (d)(1)–(4), (e)(4)(G) and (H) and (f)].

The Department of Health and Human Services announced its intentions to exempt this system in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 9, 1999 (64 FR 37081). No comments were received. Consequently the amendment is the same as that proposed in the NPRM.