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FEDERAL RESERVE SYSTEM

12 CFR Part 206

[Regulation F, Docket No. R-0327]

Securities of State Member Banks; Correction

AGENCY: Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a previous Federal Register document (FR Doc. 81-4218) published at page 11237 in the issue for Friday, February 6, 1981 relating to securities of State member banks.

FOR FURTHER INFORMATION CONTACT:

Jean W. McCornick, (202) 452-3585.

SUPPLEMENTARY INFORMATION:

In FR Doc. 81-4218 appearing at page 11237 in the Federal Register of Friday, February 6, 1981 (46 FR 11237), § 206.5 is corrected by adding paragraphs (d)(3) through (d)(6) following the end of (d)(2) in the third column of page 11239:

(d) * * *

(3) A form of proxy which provides both for the election of directors and for action on other specified matters shall be prepared so as clearly to provide, by a box or otherwise, means by which the security holder may withhold authority to vote for the election of directors. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of directors shall be deemed to grant such authority, provided the form of proxy so states in bold-face type. This paragraph (d)(3) does not apply (i) in the case of a merger, consolidation, or other plan if the election of directors is an integral part of the plan and is not to be separately voted upon or (ii) if the only matters to be acted upon are the

election of directors and the election, selection, or approval of other persons such as clerks or auditors.

(4) A proxy may confer discretionary authority to vote with respect to any of the following matters:

(i) Matters that the persons making the solicitation do not know, within a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy;

(ii) Approval of the minutes of the prior meeting if such approval does not amount to ratification of the action taken at that meeting;

(iii) The election of any person to any office for which a bona fide nominee is named in the proxy statement and such nominee is unable to serve or for good cause refuses to serve;

(iv) Any proposal omitted from the proxy statement and form of proxy pursuant to § 206.5(k);

(v) Matters incident to the conduct of the meeting.

(5) No proxy shall confer authority (i) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (ii) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

(6) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the shares represented by the proxy will be voted and that where the person solicited specifies by means of a ballot provided pursuant to paragraph (d)(2) of this section a choice with respect to any matters to be acted upon, the shares will be voted in accordance with the specifications so made.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-11322 Filed 4-13-81; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 203

[Regulation ER-1207A; Economic Regulations Docket: 38783]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Affirmation of interim final rule.

SUMMARY: The CAB is affirming an interim rule amending its restriction removal program. The rules for this program establish procedures for the gradual elimination of operating restrictions in air carrier certificates for domestic scheduled service. This affirmation makes final the interim rule that states that after January 1, 1981, unrestricted authority will be given only to certificated carriers that have been found fit, willing, and able to operate under the Federal Aviation Act. The rule is at the CAB's own initiative.

DATES: The affirmation is adopted on April 3, 1981 although the rule was effective December 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5330.

SUPPLEMENTARY INFORMATION: By ER-1139, [44 FR 49188, August 21, 1979], the Board set up a four-phased program in 14 CFR Part 203 to eliminate intermediate stop restrictions in the certificates of air carriers for domestic scheduled service, except for intra-Alaska and intra-Hawaii Markets. These restrictions were first lifted in small markets in August 1979, and were removed at regular intervals after that date in progressively larger markets, until all restrictions in all markets were eliminated on December 31, 1980 (Phase IV). The Board clarified its rules for this program in ER-1206 (45 FR 86413, December 31, 1980) by stating explicitly that after December 31, 1980, when all remaining stop restrictions were removed, carriers receiving new authority to a point will automatically have nonstop authority to all other points on their certificates.

This opportunity to acquire new authority could have caused a serious problem. The Board's restriction removal program in 14 CFR Part 203 applies to all carriers issued certificates under section 401 of the Federal Aviation Act. The rules for this program make no distinction between an air carrier that obtains a certificate by a standard route application under section 410(d)(1), which requires a prior determination of fitness, and one that obtains it by an unused authority application under section 401(d)(5), which does not. After December 31, 1980, therefore, an air carrier could have used the dormant authority method of obtaining a certificate, without having been found fit, and then have used the restriction removal program to connect all points on its dormant authority certificate. A significant route system involving large jet operations could thus be constructed while by-passing the fitness requirement. This was not the intent of Congress in creating the dormant authority provision in the Act, or the intent of the Board in creating the restriction removal program.

On January 7, 1981, the Board issued an interim final rule (ER-1207, 46 FR 1664) that amended 14 CFR Part 203 to apply the restriction removal program only to those carriers found fit, willing, and able under the Federal Aviation Act. In order not to disrupt the ongoing program close to the effective date of Phase IV, and in view of the urgent need to notify the public and the carriers of this change, the interim rule was made effective immediately, accompanied by a request for comments. On January 19, 1981, the Board issued an erratum to ER-1207, 46 FR 7268 (January 23, 1981) adding to the rule the exception in § 203.3(f), inadvertently omitted, for new authority deferred pending environmental analysis. No comments were submitted in response to ER-1207. The Board, therefore, affirms the final rule in ER-1207, as changed by the erratum, to apply the restriction removal program only to those air carriers found fit, willing, and able under the Federal Aviation Act.

Accordingly, the interim rule to § 203.3(f) published at 46 FR 1664, January 7, 1981 and corrected at 46 FR 7268, January 23, 1981 is hereby affirmed as a final rule.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-11334 Filed 4-13-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

Animal Drugs, Feeds, and Related Products; Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by A. L. Laboratories, Inc., providing for use of bacitracin premixes to manufacture complete broiler feeds containing 50 or 100 to 200 grams of bacitracin per ton. The feed is used for prevention and control of necrotic enteritis.

EFFECTIVE DATE: April 14, 1981.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION:

A. L. Laboratories, Inc., 452 Hudson Terrace, Englewood Cliffs, NJ 07632, filed a supplemental NADA (46-592) providing for use of bacitracin methylene disalicylate premixes containing 10, 25, 40, or 50 grams of bacitracin per pound to manufacture a complete feed containing 50 or 100 to 200 grams of bacitracin per ton for broiler chickens. The feed is used to prevent and control necrotic enteritis caused or complicated by *Clostridium* spp. or other susceptible organisms.

Bacitracin methylene disalicylate at 50 and 100 to 200 grams per ton was in use for broilers before October 10, 1962. The product was the subject of two National Academy of Sciences/National Research Council (NAS/NRC) notices published in the Federal Register of July 17, 1970 (35 FR 11531; DESI 0061NV), and October 2, 1970 (35 FR 15408; DESI 0061NV). The NAS/NRC notices concluded, and the agency concurred, that these products are probably effective for growth claims in poultry and probably not effective for therapeutic claims. The Bureau of Veterinary Medicine required new data to support claims which NAS/NRC found not effective or probably not effective. A. L. Laboratories, Inc., has collected new effectiveness data to support the blue comb (nonspecific infectious enteritis) claims in broiler chickens. Based on the new data, the wording of the claims has been changed

to reflect new knowledge about the disease and the drug's effectiveness.

Because bacitracin methylene disalicylate is currently permitted in 21 CFR 558.76 at 50 to 100 grams per ton for prevention of blue comb (nonspecific infectious enteritis) in chickens and at 100 to 200 grams per ton for control of this disease, and because this revised claim is within that approved usage, approval of this supplement will not result in a significant increase in the number of food-producing animals receiving medication. The Bureau of Veterinary Medicine concludes that approval of this supplemental NADA poses no increased human risk from exposure to residues of the new animal drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the human safety data supporting the parent application. The supplement is approved and the regulations amended to reflect the approval.

In Accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.76 is amended in paragraph (e)(1) in the table by renumbering existing items (v) through (vii) as (vi) through (viii), by adding new item (v), and by adding in

new item (viii) a new subitem 3., to read as follows:

§ 558.76 Bacitracin methylene disalcylate.

Bacitracin methylene disalcylate in grams per ton	Combinations in grams per ton	Indications for use	Limitations	Sponsors
(v) 50		Broiler chickens; as an aid in the prevention of necrotic enteritis caused or complicated by <i>Clostridium</i> spp. or other organisms susceptible to bacitracin.		046573
(vi) 100 to 200		3. Broiler chickens; as an aid in the control of necrotic enteritis caused or complicated by <i>Clostridium</i> spp. or other organisms susceptible to bacitracin.		046573

Effective date. April 14, 1981.

(Sec. 512(i), 82 Stat. 347 [21 U.S.C. 360b(i)])

Dated: April 2, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-10531 Filed 4-13-81; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1788-1]

Approval and Promulgation of Implementation Plans; San Diego Air Basin Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On October 4, 1979 (44 FR 57109), the Environmental Protection Agency (EPA) published a notice of proposed rule-making for the San Diego Air Basin nonattainment area plan (NAP) for carbon monoxide (CO), ozone (O₃), total suspended particulate matter (TSP), and nitrogen dioxide (NO₂). Today's notice addresses all of the San Diego NAP except the inspection/maintenance portion, which will be addressed in a future Federal Register notice.

Through revisions submitted to supplement the NAP, the State has corrected the TSP and NO₂ major deficiencies described in the October 4 notice.

Therefore, today's final action results in an overall conditional approval for TSP and NO₂. These actions remove the prohibition on construction of major new or modified TSP and NO₂ sources. However, the construction prohibition continues to apply to major new and modified ozone and carbon monoxide sources.

This notice provides a brief summary of the proposed rulemaking notice,

describes the recent revisions which supplement the NAP, discusses public comments, and describes EPA's final actions on the NAP.

DATES: This action is effective April 14, 1981.

ADDRESS: A copy of today's revisions to the California State Implementation Plan (SIP) is located at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, Attn.: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On July 5, 1979, the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the *San Diego Air Basin Control Strategy* as a revision to the California SIP. In addition, prior to July 5, 1979, several amendments to the San Diego County Air Pollution Control District (APCD) Rules and Regulations were submitted. These revisions, which comprise the San Diego Air Basin NAP, are intended to provide for the attainment of the CO, O₃, TSP, and NO₂ NAAQS in San Diego County.

On October 4, 1979 (44 FR 57109), EPA published a notice of proposed rulemaking on the San Diego Air Basin NAP. That notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared to NAP to those criteria, and, as described below, proposed to approve, conditionally approve, or disapprove portions of the NAP. The October 4, 1979 notice should be used as a reference in reviewing today's actions.

EPA proposed to disapprove the following portions of the NAP: legally adopted measures/schedules; permit program; extension requirements; and extension requirements for VOC RACT. EPA proposed to disapprove these portions because the lack of an I/M program, an NSR rule, and rules reflecting RACT for certain VOC sources constituted major deficiencies with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas." As discussed in the October 4, 1979 notice, the NAP as a whole cannot be approved or conditionally approved with respect to Part D with these major deficiencies. Thus, that notice proposed to disapprove the overall San Diego Air Basin NAP and continue the construction prohibition.

EPA also proposed to approve and incorporate into the SIP the following portions of the NAP, regardless of the ultimate approvability of the overall NAP: emission inventory for hydrocarbons (HC), CO and NO₂; modeling for CO; reasonable further progress (RFP); emission growth; and public hearing. These portions of the NAP were found to be consistent with Part D.

Finally, EPA proposed that the following portions of the NAP could be conditionally approved if major deficiencies in the NAP were corrected: emission inventory for particulates; attainment provision; modeling for O₃, TSP, and NO₂; legally adopted measures/schedules; emission reduction estimates; annual reporting; permit program; resources; public and governmental involvement; extension requirements; and extension requirements for VOC RACT. These portions were found to contain minor deficiencies with respect to Part D. EPA also proposed conditions of approval for these portions.

After the publication of the October 4, 1979 notice, EPA received the necessary NSR rules as SIP revisions from the State and numerous public comments, which are discussed in today's notice. In addition, the State has submitted VOC

rules as SIP revisions which appears to correct the VOC major deficiency. Those VOC rules are addressed in the February 4, 1981 proposed rulemaking notice. However, the California State Legislature to this date has failed to correct the I/M major deficiency.

Supplemental Revisions

Subsequent to the publication of the October 4, 1979 notice, the State submitted revisions which supplement portions of the NAP. These revisions are discussed below.

New Source Review (NSR)

The October 4, 1979 notice cited the lack of an adopted, legally enforceable NSR rule as a major deficiency which must be corrected before EPA could approve or conditionally approve the CO, O₃, TSP, or NO_x plants.¹ However, the State submitted a draft NSR rule and requested EPA to review this rule. EPA reviewed the draft NSR rule and concluded that it contained only minor deficiencies with respect to Part D requirements. EPA proposed that the permit program portion of the NAP could be conditionally approved if the State submitted an adopted NSR rule similar and equivalent to the draft rule.

On February 13, 1980, the State submitted the following adopted NSR rules for the San Diego County APCD:

- Rule 20.1 Definitions, Emission Calculations, Emission Offsets and Banking, Exemptions, and Other Requirements
- Rule 20.2 Standards for Authority to Construct—Best Available Air Pollution Control Technology
- Rule 20.3 Standards for Authority to Construct—Air Quality Analysis
- Rule 20.4 Standards for Authority to Construct—Major Stationary Sources
- Rule 20.5 Power Plants
- Rule 20.6 Standards for Permit to Operate—Air Quality Analysis
- Rule 20.7 Standards for Authority to Construct—Significant Deterioration

Section 173 of the Clean Air Act contains the requirements for approval of a permit program. EPA established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling (January 16, 1979 *Federal Register*, 44 FR 3274) and (2) EPA's proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling (September 5, 1979 *Federal Register*, 44 FR 51924).

San Diego's NSR rules were reviewed against the requirements stated in Section 173 of the Act and the Emission Offset Interpretative Ruling of January

16, 1979. They were also compared with the State's draft NSR rule. EPA has determined that the submitted rules are similar to the draft rule in that the definitions and requirements are substantially the same, and are equivalent to the draft rule in that they are at least as effective in meeting the requirements of Section 173. In addition, the submitted rules will be in effect for only a short time since the State is required to meet new EPA requirements for NSR by May 7, 1981, as is discussed below.

EPA has also determined, however, that the submitted rules contain some minor deficiencies with respect to Section 173, including exemptions for certain sources inconsistent with EPA's requirements, and a definition of "stationary source" less stringent than is required. These and other minor deficiencies are described in EPA's *Evaluation Report Addendum*, which is contained in document file NAP-CA-19 and is available at the EPA Region IX Office, the ARB, the San Diego County APCD, the Comprehensive Planning Organization, and the EPA Library in Washington D.C.

It should be noted that EPA has published two final rulemaking notices on the September 5, 1979 proposed amendments to EPA's NSR regulations and the Emission Offset Interpretative Ruling. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's Interpretative Ruling and set out new EPA requirements for NSR under Section 173. The State is required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the San Diego County APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR (May 13, 1980, 45 FR 31307; and August 7, 1980, 45 FR 52676) which the APCD rules do not currently satisfy and (2) the deficiencies cited in EPA's *Evaluation Report Addendum* which still apply despite EPA's new NSR requirements.

Stationary Source VOC RACT Regulations

The October 4, 1979 notice cited the lack of adopted, legally enforceable rules reflecting RACT for seven VOC source categories for which EPA had published a Control Techniques Guideline (CTG) document as a major deficiency which must be corrected before EPA could approve or conditionally approve the O₃ plan. On October 15 and 25, 1979, the State submitted the following San Diego County APCD rules for these 7 VOC source categories:

October 15, 1979

- Rule 67.6 Solvent Cleaning Operations
- Rule 67.7 Cutback and Emulsified Asphalts

October 25, 1979

- Rule 67.3 Coating of Metal Parts Products
- Rule 67.4 Can and Coil Coating Operations
- Rule 67.5 Paper and Fabric Coating Operations

EPA will propose action and invite public comment on the submitted rules listed above in a separate *Federal Register* notice.

The October 4, 1979 notice also proposed to approve or conditionally approve five rules (Rules 61.0, 61.1, 61.2, 61.3 and 61.7) for VOC sources addressed by the other four Group I CTG source categories applicable in the San Diego Air Basin. However, the State submitted the following San Diego County APCD rules on July 25 and December 15, 1980, which revise and supersede all of the originally proposed rules except Rule 61.7:

- Rule 61.0 Definitions
- Rule 61.1 Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals
- Rule 61.2 Transfer of Volatile Organic Compounds into Mobile Transport Tanks
- Rule 61.3 Transfer of Volatile Organic Compounds into Stationary Storage Containers
- Rule 61.4 Transfer of Volatile Organic Compounds into Vehicle Fuel Tanks

Again, EPA will propose action and invite public comment on these rules in a separate *Federal Register* notice.

EPA is taking final action in today's notice (see the EPA ACTIONS section) on rules which were submitted prior to and discussed in the October 4, 1979 notice and which have not been superseded, namely Rules 2(i), 61.5, and 61.7.

California Environmental Quality Act (CEQA)

The October 4, 1979 notice proposed as a condition of approval the submittal of those portions of CEQA that relate to an analysis of alternatives which demonstrate that benefits outweigh environmental costs when granting an NSR permit to a major emitting facility. Such an analysis is required by Section 172(b)(11)(A) of the Clean Air Act, the lack of which constitutes a minor deficiency.

On October 20, 1980, the State submitted the following portions of CEQA:

- Sections 2100; 21001; 21002; 21002.1; 21061; 21063; 21065; 21080.1; 21080.4(a); 21080.5 (a), (b), (c) and (d); 21081; 21082; 21100; 21104; 21151; 21153; and 21160.

¹ In this notice, the word "plan(s)" means the overall NAP or portions of the NAP specific to certain pollutant(s).

These portions of CEQA require all "State agencies, boards, and commissions" to certify the completion of an environmental impact report (EIR) on any project "which may have a significant effect on the environment." The EIR shall include "a detailed statement" setting forth, among other things, "alternatives to the proposed action." In order to approve a project under CEQA, the agency must find either (1) that changes have been required in the project "which mitigate or void the significant environmental effects thereof as identified in the completed environmental impact report" or (2) that "[S]pecific economic, social, or other considerations make infeasible mitigation measures or project alternatives identified in the environmental impact report."

EPA has determined that the submittal of these portions of CEQA corrects the cited minor deficiency. Further, EPA incorporated these portions of CEQA into the California SIP in the recently published notice of final rulemaking for the South Coast Air Basin NAP.

Public Comments

Comments Specific to the San Diego Air Basin NAP

During the public comment period, EPA received several comments. The following discussion, structured upon the 14 criteria for approval identified in the October 4, 1979 notice, describes the relevant comments and EPA's responses. Comments concerning inspection/maintenance will be addressed in a future notice.

(1) Emission Inventory

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a refined emission inventory for particulates, identifying and quantifying subcategories of the fugitive dust category. The San Diego County APCD commented that these fugitive dust subcategories are adequately identified and quantified in the NAP technical support documents and that an extension of the submittal deadline is needed for ARB to formally submit this data to EPA. Also, the San Diego County APCD and the Comprehensive Planning Organization (CPO) commented that the emission inventory would be revised to reflect only the nonattainment area portion of the County.

Response: EPA will revise the deadline for State submittal of the refined particulate emission inventory to December 31, 1981.

(2) Attainment Provision

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of emission projections for particulates, NO₂, HC, and CO for the statutory attainment dates. The APCD commented that these will be provided to ARB for submittal to EPA and requested an extension of the deadline.

Response: EPA will revise the deadline for the State's submittal of the required emission projections to July 13, 1981.

Comment: The October 4, 1979 notice noted that the State should submit a commitment to an emission reduction target (ERT) for the transportation sector in the 1980 annual report. CPO commented that Work Element 205.02 of the CPO fiscal year 1980 Overall Work Program calls for the development of transportation ERTs for four alternative scenarios to be used in developing alternative strategies for the 1982 SIP revision.

Response: The use of alternative targets is acceptable for planning purposes. However, in order to demonstrate attainment and to facilitate necessary planning for other source sectors, one target must be acknowledged as a goal for reducing emissions in the transportation sector. Therefore, one target for the transportation sector should be adopted by a resolution and included in the 1981 annual report.

Comment: The APCD commented that ERTs for transportation should take into account the effectiveness of technological controls and the need to demonstrate attainment of the NAAQS.

Response: EPA agrees. Targets should reflect the reductions in emissions necessary to demonstrate attainment, taking into account the air quality impacts of anticipated growth and development, emission reductions achieved through existing programs (such as the federal motor vehicle emission standards program), and local decisions regarding the responsibilities of each source sector (i.e., transportation, stationary, mobile, and area sources) to assume appropriate portions of the needed reductions.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a commitment and a schedule to study nontraditional TSP control measures and a commitment to implement those measures found to be reasonable. ARB commented that in adopting other NAPs, they established a statewide policy and commitment to adopt those controls necessary to project attainment of the TSP NAAQS by December 31, 1982, and that the

APCD's submittal of study schedules would then complete the above condition. ARB requested an extension of the deadline to facilitate this submittal.

Response: The San Diego Air Basin NAP, as presently submitted, does not address nontraditional TSP source control measures, despite ARB's policy statements in other NAPs. The San Diego NAP must contain a commitment and a schedule to study nontraditional TSP source control measures for the San Diego Air Basin, and a commitment to implement those measures necessary to provide for attainment. EPA will revise the deadline for State submittal of the commitments and schedule to July 13, 1981.

Comment: The October 4, 1979 notice proposed as a condition of approval a reanalysis of the NO₂ attainment demonstration. The APCD and ARB commented that a preliminary analysis of NO₂ ambient monitoring data correcting calibration errors suggests that the San Diego Air Basin may qualify for NO₂ attainment status. If the analysis confirms that the NO₂ standard has been met, redesignation to attainment will be requested. If the analysis shows otherwise, additional time will be needed to revise the attainment demonstration.

Response: EPA will revise the deadline for state submittal of either a reanalysis of the NO₂ attainment demonstration, or an NO₂ analysis which can support an EPA attainment redesignation to July 13, 1981.

(3) Modeling/Level of Control

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of documentation of the O₃ design value and the ratio of non-methane hydrocarbons to nitrogen oxides used in the Empirical Kinetic Modeling Approach (EKMA) O₃ analysis. The APCD and CPO commented that the EKMA analysis, performed by the ARB, is unsuitable for the San Diego Air Basin. The APCD further commented that ARB would have to provide the required documentation, as the APCD performed a rollback analysis in the locally adopted NAP. ARB commented generally that they do not have the resources to return to the 1979 NAPs to correct all minor problems and simultaneously develop complete and effective SIP revisions for 1982.

Response: EPA recognizes that the EKMA analysis contained in the NAP may not accurately estimate the emission reductions needed to attain the O₃ standard and that further air quality

analyses must be conducted. Moreover, the APCD and ARB are currently developing a more sophisticated O₃ modeling analysis for inclusion in the 1982 SIP revision. Therefore, EPA has determined that the O₃ modeling analysis submitted with the San Diego NAP is acceptable for the purpose of 1979 SIP revision, since the State's resources would be better utilized in developing a more refined modeling analysis on which to base changes in the O₃ control strategy in the upcoming 1982 SIP revision. Thus, EPA is deleting the submittal of O₃ modeling documentation for the 1979 SIP revision as a condition of approval.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of modeling results which estimate the emission reductions necessary to provide for attainment of the NO₂ standard by December 31, 1982. The APCD and ARB commented that the NO₂ attainment status question created by the monitoring calibration errors mentioned above will result either in an attainment redesignation request or in additional time needed to perform an NO₂ modeling analysis.

Response: As with the NO₂ attainment demonstration approval condition, EPA will revise the deadline for the State's submittal of either NO₂ modeling results, or an NO₂ analysis which can support an EPA attainment redesignation to July 13, 1981.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of documentation of the TSP design value, and modeling results which estimate the emission reductions necessary to provide for attainment of the TSP standard. ARB commented that it would be extremely difficult to submit a modeling analysis which takes nontraditional TSP sources into account by the proposed December 1980 deadline. ARB requested that the submittal deadline be revised to December 31, 1981.

Response: EPA will revise the deadline for submittal of the TSP design value documentation and modeling results to December 31, 1981 as requested. It should be noted that in commenting on proposed rulemaking notices for other California TSP nonattainment areas, ARB requested the same December 31, 1981 deadline in order to maintain coordination in the State's TSP work.

(4) Legally Adopted Measures/ Schedules

Comment: In response to EPA's citing the lack of legally enforceable regulations for seven volatile organic compound (VOC) source categories, the

APCD and ARB commented that locally adopted rules for these VOC sources have been or will be submitted to EPA.

Response: The State submitted the required VOC rules on October 15 and 25, 1979. EPA will propose action and invite public comment on these rules in a separate Federal Register notice.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of legally enforceable commitments and implementation schedules for the necessary TCMs (at a minimum, the seven TCMs identified in the NAP as reasonably available). CPO commented that they will provide the necessary commitments to ARB for submittal to EPA and requested an extension of the submittal deadline. The APCD commented that EPA should consider local adoption of model ordinances developed by CPO as evidence of commitments to implement or enforce NAP control measures.

Response: Local adoption of model ordinances could provide evidence of commitments to implement control measures if supported by the necessary commitments of staff and financial resources for implementation and/or enforcement. The adequacy of such adopted model ordinances will be determined at the time of their submittal to EPA by the State. EPA will revise the deadline for State submittal of the TCM commitments and implementation schedules to July 13, 1981.

Comment: ARB commented that EPA should specify requirements for acceptable commitments from transportation planning agencies to implement the necessary TCMs.

Response: EPA requirements for implementation commitments have been discussed in previous meetings with ARB, CPO, and the San Diego County APCD. At a minimum, these commitments shall consist of resolutions, letters or other devices adopted by the policy bodies of each agency or entity responsible for implementing the control measures. Included in these devices must be:

- (a) an acknowledgment of the agency's role in implementing specific NAP related control strategies;
- (b) an identification of specific agency tasks to be carried out in fulfillment of that role; and
- (c) specified implementation dates and, where appropriate, completion dates for each of the identified tasks. Scheduling must be consistent with requirements for reasonable further progress (RFP).

Implementation commitments must be further supported by explicit budgetary commitments, to be discussed below under criterion 10, "Resources."

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a commitment in legally enforceable form to implement all control measures necessary for attainment of the NO₂ standard by the statutory date. The APCD and ARB commented that if the current analysis of NO₂ ambient data shows San Diego County not to be in attainment, additional time beyond the proposed submittal deadline will be needed.

Response: As with the NO₂ attainment demonstration and modeling conditions of approval, EPA will revise the deadline for the State's submittal of either a commitment to implement all necessary NO₂ control measures, or an NO₂ analysis which can support an EPA attainment redesignation to July 13, 1981.

(5) Emission Reduction Estimates

Comments: The October 4, 1979 notice proposed as a condition of approval the submittal of annual emission reduction estimates per control tactic per pollutant. Both the APCD and CPO commented that they will provide such estimates for stationary and transportation control measures to ARB for submittal to EPA and requested an extension of the submittal deadline.

Response: EPA will revise the deadline for State submittal of emission reduction estimates per control tactic to (90 days after publication of this notice).

(6) Reasonable Further Progress

Comment: The October 4, 1979 notice noted that a TCM monitoring program must be in place and included in the 1980 annual report. CPO commented that Work Element 205.06 of the CPO FY-80 Overall Work Program calls for development of a transportation monitoring program. CPO further commented that similar monitoring programs should be developed for non-transportation control tactics, or a clear demonstration be made that the existing monitoring programs are adequate. The APCD commented that its existing stationary source monitoring program through the EPA Compliance Data System is sufficient and there is no need to require additional stationary source monitoring.

Response: EPA concurs with the APCD in that existing stationary source monitoring in San Diego County is adequate. The 1981 annual report must include the results of a fully implemented TCM monitoring program.

(7) Emissions Growth

No comments were received.

(8) Annual Reporting

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a commitment to annual reporting. The APCD, ARB, and CPO commented that they have already committed to submit annual reports through EPA grants and thus requested that the above condition be deleted.

Response: EPA concurs and is deleting the commitment to annual reporting as a condition of approval.

(9) Permit Program

Comment: In response to EPA's citing in the October 4, 1979 notice the lack of an adopted and legally enforceable NSR rule, the APCD and ARB commented that adopted NSR rules for San Diego County would be submitted.

Response: The State submitted the San Diego County NSR rules on February 13, 1980. EPA's review of these rules can be found in the Supplemental Revisions section of this notice and in EPA's Evaluation Report Addendum.

(10) Resources

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of the financial and personnel resource commitments necessary to implement the NAP. The APCD and CPO commented that they will submit budget and manpower figures for the current fiscal year, as well as proposed budget and manpower estimates for the next fiscal year, in the 1980 and subsequent annual reports. ARB commented that it is infeasible for California agencies to make multi-year budget commitments and that the most feasible approach would be to submit annual budget documentation as part of each annual report.

Response: EPA recognizes the limitations involved here and agrees that an appropriate approach is to submit annual local budget commitments. Therefore, the identification of necessary resource commitments to implement the NAP must be submitted by the State to EPA when the local budgets are adopted. The NAP must include a commitment to provide this information annually.

(11) Public and Government Involvement

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of an analysis of the health effects of the NAP provisions. The APCD commented that an adequate discussion of the health effects of the NAP provisions exists in the NAP support documents and that an extension of the deadline is needed for

ARB to formally submit this discussion to EPA.

Response: EPA will revise the deadline for State submittal of the analysis of the health effects of the NAP to July 13, 1981.

(12) Public Hearing

No comments were submitted.

(13) Extension Requirements

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of those portions of the California Environmental Quality Act (CEQA) that relate to an analysis of alternatives which demonstrates that benefits outweigh environmental costs when granting an NSR permit to a major emitting facility. The APCD commented that the alternative site analysis provision in their NSR rules is adequate to fulfill the above condition, thus satisfying the requirements of Section 172(b)(11)(A) of the Clean Air Act.

Response: As noted in EPA's Evaluation Report Addendum, the San Diego County NSR rules [i.e., Rule 20.4(g)] do not fully satisfy Section 172(b)(11)(A) of the Act and the rules should be revised to do so. However, in response to the proposed condition of approval cited above, the State submitted the relevant portions of CEQA on October 20, 1980. As discussed in Supplemental Revisions, the CEQA submittal satisfies the proposed condition of approval and therefore it was deleted in today's notice.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of commitments to establish, expand, or improve public transportation to meet basic transportation needs. CPO commented that they produced a draft report, concluding that the existing transit service meets basic transportation needs. CPO also commented that Work Element 202.08 of the CPO FY-80 Overall Work Program includes a task to analyze the development of modifications to the existing public transportation system to meet existing and projected needs. CPO and ARB further commented that EPA needs to provide guidance to define "basic transportation needs" and the acceptability of commitments to meet such needs, and both requested an extension of the submittal deadline.

Response:

Guidance on basic transportation needs has now been developed by EPA Headquarters in consultation with the Department of Transportation (DOT), and was published as proposed policy in the Federal Register on September 18,

1980 (45 FR 62170). Also, as has been discussed previously with all lead agencies and states requesting extensions for either CO or O₃ nonattainment areas in Region IX, policy level commitments should be provided by the lead agency, acknowledging the explicit requirements of Sections 110(a)(3)(D) and 110(c)(5)(B) of the Act, and committing to develop plans and programs to meet those requirements, such as those currently being analyzed by CPO. EPA will revise the deadline for State submittal of the commitments to meet basic transportation needs to July 13, 1981.

Comment: CPO commented that efforts to enhance air quality and conserve energy through increased transit are hampered by the unavailability of transit coaches and by partially contradictory Federal objectives of improving air quality and providing increased mobility for the physically and economically disadvantaged.

Response: While the unavailability of transit coaches is an important short-term limitation, expansion of existing bus fleets is only one element of what should be a coordinated transportation program aimed at maximizing mobility while minimizing energy consumption and air pollution.

Also, while certain Federal objectives may compete for the same limited resources, EPA disagrees with the notion that Federal air quality objectives and objectives of increased mobility for the physically and economically disadvantaged are contradictory. EPA feels that any definition of "basic transportation needs" must necessarily provide for services to the economically disadvantaged and to those persons with special mobility problems (i.e., the physically handicapped).

EPA also recognizes that once a determination of necessary improvements to meet basic transportation needs has been made, short-term financing limitations may create some immediate conflicts between transit expansion for air quality purposes and modification to fulfill the needs of the elderly and physically handicapped. However, EPA feels that these goals can be addressed with a balanced transit alternative which proves sufficiently responsive to both areas.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a schedule to analyze alternative packages of TCMs, including (but not limited) to those measures listed in Section 108(f)(1)(A) of the Clean Air Act. The notice further proposed

that these alternative packages include the three Section 108(f)(1)(A) measures which were not addressed in the NAP. CPO commented that they intend to develop and analyze alternative packages of TCMs, and will transmit a schedule for this analysis to ARB for submittal to EPA. CPO also commented that they will analyze one of the TCMs not addressed in the NAP (extended idling controls), but noted the other two TCMs (fleet vehicle controls, and alternative engines and fuels) can best be analyzed by EPA and/or ARB. CPO requested guidance on the level and scope of analysis required at the local/regional level for the latter two TCMs. In addition, ARB commented generally that EPA should provide additional time for ARB review of the locally developed actions, in recognition of the complex two-tiered process of plan development and implementation in California.

Response: Although fleet vehicle controls and alternative engines and fuels can best be analyzed by EPA and ARB, there are many ways in which these control measures can be carried out at the local level. Examples include programs and incentives to consolidate fleet vehicle trips, and incentives for fleet owners to use alternative engines and/or fuels (e.g., electric, propane, diesel, or conversion of the fleet to newer, more efficient vehicles). CPO needs to examine the feasibility and potential effectiveness of such alternatives in cooperation with other local agencies. As for the proposed condition of approval, EPA will revise the deadline for State submittal of a schedule to analyze alternative packages of TCMs to July 13, 1981.

Comment: The October 4, 1979 notice noted that the State should submit in the 1980 annual report procedures for determining conformity with the SIP of any project, program, or plan over which CPO has approval authority. CPO and ARB commented that EPA needs to provide guidelines to State and local agencies for developing such procedures. CPO also commented that conformity determination procedures are currently being developed under Work Element 202.06 of the CPO FY-80 Overall Work Program, but that these procedures should be submitted to EPA some time after local receipt of the EPA guidance.

Response: On June 12, 1980, EPA and DOT issued joint national policy for state and local agencies to use in developing conformity evaluation and determination procedures. Additional regional guidance is currently being prepared by the EPA Region IX Office to supplement the national policy.

However, EPA recommends that CPO's development of improved procedures not wait for issuance of the additional guidance.

(14) Extension Requirements for VOC RACT

Comment: As noted above under Criterion 4, "Legally Adopted Measures/Schedules," the APCD and ARB commented that the required VOC rules identified in the October 4, 1979 notice as missing have been or will be submitted to EPA.

Response: The State submitted the required VOC rules on October 15 and 25, 1979. EPA will propose action and invite public comment on these rules in a separate Federal Register notice.

Comment: The October 4, 1979 notice proposed as a condition of approval the submittal of a fixed-roof storage tank rule which represents RACT or a demonstration that the fixed-roof storage tank rule submitted on May 23, 1979 (Rule 61.3) represents RACT. The APCD commented that they will submit documentation demonstrating VOC emission reductions under the rule submitted on May 23, 1979 to be within 5% of the reductions achievable through RACT. ARB commented that they received amended rules for consideration from the APCD and would forward the amended rules to EPA when their review had been completed.

Response: ARB submitted amendments to Rules 61.0 through 61.4 as SIP revisions on July 25 and December 15, 1980. EPA will propose action and invite public comment on these rules in a separate Federal Register notice. The adequacy of amended Rule 61.3 as it relates to RACT is discussed in that notice.

National Comments

One commenter submitted extensive comments and requested that they be considered part of the record for each state plan. Another commenter, a national environmental group, discussed EPA action on permit fee systems and the composition of state boards. Although some of the issues raised are not relevant to provisions in the San Diego Air Basin NAP, the November 10, 1980 Federal Register (45 FR 74480) should be referenced for a discussion of these comments and EPA's responses.

EPA Actions

Introduction

It is important for reviewers of this notice to understand the overall nature of NAPs and of EPA's review and approval role. Central to such an understanding is recognition that action

may be taken on a portion of the NAP for a specific pollutant. Therefore, a portion of the NAP may be adequate for one pollutant but inadequate for others. EPA is taking final action on all portions of the San Diego NAP for each pollutant except the inspection/maintenance portion. As a result, this notice contains a series of actions for each portion of the NAP for each pollutant rather than a single action. One of the following three actions may be taken for each portion of the NAP:

1. Disapproval where the State does not agree to correct minor deficiencies or where deficiencies are of such magnitude as to significantly interfere with the basic objective; or
2. Approval where the portion of the NAP under consideration meets all requirements; or
3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency by certain dates.

EPA's final actions on each portion of the NAP for each pollutant is based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA. Each action is described below.

Approved Portions of the NAP

As proposed in the October 4, 1979 notice, EPA is taking final action to approve the following portions of the NAP, regardless of the approvability of the overall NAP with respect to Part D: emission inventory for HC, CO, and NO_x; modeling for CO; reasonable further progress; emissions growth; and public hearing. In addition, without legal authority to implement and enforce an I/M program, the NAP cannot demonstrate RFP for ozone and CO through 1987. However, at this time there is no point in disapproving the RFP portion of the NAP for ozone and CO since the key deficiency is the I/M portion of the NAP. Once I/M legislation is passed, the State would be able to demonstrate RFP and the NAP could be approved. Therefore, EPA is approving the RFP portion of the NAP. No supplemental revisions or public comments were received addressing the approvability of these portions.

Further, as discussed in the Supplemental Revisions and Public Comments sections of this notice, the following portions of the NAP satisfy Part D requirements: modeling for O₃; annual reporting; and extension

requirements for NSR (i.e., the requirements of Section 172(b)(1)(A) of the Clean Air Act). Therefore, EPA is taking final action to approve these portions of the NAP.

As proposed, EPA is taking final action under Section 110 and Part D of the Clean Air Act to approve the following San Diego County APCD rules listed in the October 4, 1979 notice:

Rule 2(t) Definitions

Rule 61.5 Visible Emissions Standards for Vapor Control Systems

Rule 61.7 Spillage of Volatile Organic Compounds.

However, as discussed in the Supplemental Revisions section of this notice, EPA is proposing action and inviting public comment on the BOC RACT rules recently submitted (February 4, 1981 (TM) Federal Register, 46 FR 10750). Therefore, this notice is not taking final action on the "extension requirements for VOC RACT" portion of the plan.

Conditionally Approved Portions of the NAP

As discussed in Supplemental Revisions, the NSR rules submitted on February 13, 1980 are (1) similar to the State's draft NSR rule in that the definitions and requirements are substantially the same and are equivalent to the draft rule in that they are at least as effective in meeting the requirements of Section 173, and (2) contain only minor deficiencies with respect to Part D. Therefore, EPA is taking final action to conditionally approve the San Diego County NSR rules and thus conditionally approve the permit program portion of the NAP with respect to Part D. Further, EPA finds that good cause exists for taking final action on the San Diego County APCD NSR rules without providing for additional public comment (see 5 U.S.C. Section 553(b)(B), Administrative Procedure Act) since:

1. The rules are similar and equivalent to the State draft rule which was subject to public comment.

2. The rules will be in effect for only a short time since the State is required to meet new EPA requirements for NSR by May 7, 1981.

3. Final action on the rules will remove the current prohibition on construction of major new or modified sources in the San Diego Air Basin with respect to particulate and NO_x emissions.

As discussed in the October 4, 1979 notice and the Public Comments section of this notice, the following portions of the NAP contain minor deficiencies: emission inventory for TSP; attainment provision; modeling for TSP and NO_x; legally adopted measures/schedules (except for I/M); emission reduction

estimates; resources; public and governmental involvement; and extension requirements for basic transportation needs and other measures (i.e., the requirements of Sections 110(a)(3)(D), 110(c)(5)(B), and 172(b)(1)(c) of the Clean Air Act). Therefore, EPA is taking final action to conditionally approve these portions of the NAP with respect to Part D.

ARB, CPO, and the APCD have provided assurances through the public comment letters and Section 105 air program grants that the minor deficiencies will be corrected by satisfying the conditions of approval discussed below. EPA finds these assurances acceptable for the purposes of conditional approval.

The conditions of approval and the associated deadlines are:

For ozone, CO, TSP, and NO_x:

1. By May 7, 1981, the San Diego County APCD's NSR rules must be revised and submitted as an SIP revision. In revising the NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980, 45 FR 31307; and August 7, 1980, 45 FR 52676) which the APCD rules do not currently satisfy and (2) the deficiencies cited in EPA's *Evaluation Report Addendum* which still apply despite EPA's new NSR requirements. The *Evaluation Report Addendum* is contained in document file NAP-CA-19 and is available at the EPA Region IX Office and the EPA Library in Washington, D.C.

2. By July 13, 1981, emission projections for December 31, 1982.

3. By July 13, 1981, annual emission reduction estimates per control tactic per pollutant.

4. By July 13, 1981, a commitment to submit annual implementing agency fiscal and personnel commitments to implement the San Diego Air Basin NAP.

5. By July 13, 1981, identification and analysis of the health effects of the San Diego Air Basin nonattainment area plan provisions.

For ozone and CO:

1. By July 13, 1981, written evidence of local adoption of legally enforceable commitments and implementation schedules consistent with reasonable further progress for the necessary transportation control measures (TCMs) (at a minimum, the seven TCMs identified in the NAP as reasonably available).

2. By July 13, 1981, a commitment to establish, expand, or improve public transportation to meet basic transportation needs.

3. By July 13, 1981, a schedule to analyze alternate packages of TCMs, including, but not limited to, those measures listed in Section 108(f)(1)(A) of the Clean Air Act.

4. By July 13, 1981, emission projections for December 31, 1987.

For TSP:

1. By December 31, 1981, documentation for the TSP design value used to determine allowable emissions, and modeling results which show the emission reductions necessary to provide for attainment of the TSP standards by December 31, 1982.

2. By December 31, 1981, a refined emission inventory for particulates, identifying subcategories of the fugitive dust source category and quantifying the associated emissions.

3. By July 13, 1981, a commitment and a schedule to study nontraditional TSP source control measures, and a commitment to implement those necessary to provide for attainment.

For NO_x:

1. By July 13, 1981, a reanalysis of the NO_x attainment demonstration, modeling results which show the emission reductions necessary to provide for attainment of the NO_x standard by December 31, 1982, and written evidence of commitments in legally enforceable form to implement all necessary measures to provide for attainment by December 31, 1982; or an NO_x analysis which can support an EPA attainment redesignation pursuant to Section 107 of the Clean Air Act.

It should be noted that additional conditions may result from EPA's review, in a separate Federal Register notice, of the VOC rules submitted on October 15 and 25, 1979, and on July 25 and December 15, 1980, which are listed in Supplemental Revisions.

Final Action on the Overall NAP

As the major deficiencies in the TSP and NO_x plans have been corrected and only minor deficiencies remain in these plans, today's actions result in a final overall conditional approval of the NAP for TSP and NO_x with respect to Part D. This removes the current prohibition on construction of major new or modified sources in the San Diego Air Basin with respect to particulate and NO_x emissions.

However, since this notice does not address a major portion of the San Diego NAP for CO and O₃, the inspection/maintenance program, today's actions do not result in a final overall approval or disapproval of the NAP for CO and O₃ with respect to Part D. This retains the current prohibition on construction of major new or

modified VOC and CO sources in the San Diego Air Basin CO and O₃ nonattainment areas.

EPA has a responsibility to take final action as soon as possible in order to lift construction prohibitions, since the State has submitted conditionally approvable TSP and NO_x plans for the San Diego Air Basin. Therefore, EPA finds that good cause exists for making this action immediately effective.

Under section 307(b)(1) of the Clean Air Act, judicial review of today's action is available *only* by the filing of a petition for review in the United States court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble [44 FR 38583 (July 2, 1979) and 44 FR 67192 (November 23, 1979)]. Conditional approval requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines being promulgated today. EPA will follow the procedures described below in determining whether the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the submittal or (2) find the conditions have not been met and disapprove the submittal. If the submittal is disapproved, the Section 110(a)(2)(I) restrictions on construction would be effective.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) prohibition on construction is in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See U.S.C. Section 553 (b)(3), Administrative Procedure Act). The State is the party responsible for meeting the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions. (44 FR 38583, July 2, 1979 and 44 FR 57109, October 4, 1979).

40 CFR Part 52 Rescissions

Since no supplemental revisions or public comments were received regarding EPA's proposed 40 CFR Part 52 rescissions, EPA is taking final action to rescind the following Federally promulgated regulations from 40 CFR Part 52:

- Sec.
- 52.242 *Inspection and maintenance program.*
 - 52.243 *Motorcycle limitation.*
 - 52.244 *Oxidizing catalyst retrofit.*
 - 52.247 *Definitions for parking management regulations.*
 - 52.251 *Management of parking supply.*
 - 52.257 *Computer carpool matching.*
 - 52.258 *Mass transit priority—exclusive bus use.*
 - 52.259 *Ramp metering and preferential bus/carpool lanes.*
 - 52.266 *Monitoring transportation mode trends.*
 - 52.269 *Control strategy and regulations: Photochemical oxidants, paragraph (a).*

Attainment Dates

The 1979 edition of 40 CFR Part 52 lists, in Subpart F for California, the applicable deadlines for attaining the NAAQS [attainment dates] required by Section 110(a)(2)(A) of the Act.

For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on California's attainment date chart in 40 CFR Part 52. The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to

comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing plan attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment [44 FR 20373-74, (April 4, 1979)].

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact

Analysis. This regulation is not Major because it only approves state actions. It imposes no new regulatory requirement.

This regulation was submitted to the Office Of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at EPA Region IX, 215 Fremont St., San Francisco CA 94105.

(Sections 110, 129, 171-178, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501-7506, and 7601(a)])

Dated: April 6, 1981.

Walter C. Barber,
Acting Administrator.

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, 1980.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended by adding subparagraphs (51)(vii), (62), and (64) as follows:

§ 52.220 Identification of plan.

- (c) * * *
- (51) * * *
- (vii) San Diego County APCD.
- (A) Amended Rules 2(t), 61.5, and 61.7.

(62) The *San Diego Air Basin Control Strategy* (Chapter 14 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) submitted on July 5, 1979, by the Governor's designee, except the inspection/maintenance portion. Additional documents were also submitted as Appendices. Those portions of the *San Diego Air Basin Control Strategy*, including Appendices, identified by Table 14-1, "Location of Plan Elements Which Meet Clean Air Act Requirements" (pages 6-7), comprise the submitted nonattainment area plan, except the inspection/maintenance portion. The remaining portions are for informational purposes only.

(64) Revised regulations for the following APCD submitted on February 13, 1980, by the Governor's designee.

- (i) San Diego County APCD.
- (A) Rules 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, and 20.7.

2. Section 52.222 is amended by adding paragraph (b)(3) as follows:

§ 52.222 Extensions.

- (b) * * *
- (3) San Diego Air Basin for TSP and NO_x.

3. Section 52.223 is amended by adding paragraph (b)(4) as follows:

§ 52.223 Approval status.

- (b) * * *
- (4) San Diego Air Basin for TSP and NO_x.

4. Section 52.232 is amended by revising the introductory text of paragraph (a)(1) thru (a)(3) and adding paragraph (a)(4) to read as follows:

§ 52.232 Part D conditional approval.

(a) The following portions of the California SIP contain deficiencies with respect to Part D of the Clean Air Act which must be corrected by meeting the indicated conditions of Part D plan approval.

- (1) Imperial County for ozone.
- (2) North Central Coast Air Basin for ozone.
- (3) South Coast Air Basin.

(4) San Diego Air Basin.
(i) For ozone, CO, TSP, and NO_x:
(A) By May 7, 1981, the NSR rules submitted on March 17, 1980 must be revised and submitted as an SIP revision. In revising the NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980, 45 FR 31307; and August 7, 1980, 45 FR 52676) which the APCD rules do not currently satisfy and (2) the deficiencies cited in EPA's *Evaluation Report Addendum* which still apply despite EPA's new NSR requirements. The *Evaluation Report Addendum* is contained in document file NAP-CA-19 and available at the EPA Region IX Office and the EPA Library in Washington, D.C.

(B) By (90 days after the publication of this notice), the submittal of the following as SIP revisions:

- (1) Particulate, volatile organic compound, CO and NO_x emission projections for December 31, 1982 and volatile organic compound and CO emission projections for December 31, 1987.

(2) Annual emission reduction estimates per control tactic for particulates, NO_x, VOC and CO.

(3) A commitment to submit annual implementing agency fiscal and personnel commitments to implement the San Diego Air Basin NAP.

(4) Identification and analysis of the health effects of the San Diego Air Basin nonattainment area plan provisions.

(ii) for ozone and CO:

(A) By July 13, 1981, the submittal of the following as SIP revisions:

(1) Written evidence of local adoption of legally enforceable commitments and implementation schedules consistent with reasonable further progress for the necessary transportation control measures (TCMs) [at a minimum, the seven TCMs identified in the San Diego Air Basin nonattainment area plan as reasonably available].

(2) Commitment to establish, expand, or improve public transportation to meet basic transportation needs.

(3) A schedule to analyze alternative packages of TCMs. Including (but not limited to) those measures listed in Section 108(f)(1)(A) of the Clean Air Act.

(iii) For TSP:

(A) By December 31, 1981, the submittal of the following as an SIP revision:

(1) Documentation for the TSP design value used to determine allowable emissions, and modeling results which show the emission reductions necessary to provide for attainment of the TSP standards by December 31, 1982.

(2) A refined emission inventory for particulates, identifying subcategories of the fugitive dust source category and quantifying the associated emissions.

(B) By July 13, 1981 the submittal of the following as SIP revisions:

(1) A commitment and a schedule to study nontraditional TSP source control measures, and a commitment to implement those necessary to provide for attainment.

(iv) For NO_x:

(A) By July 13, 1981, the submittal of the following as an SIP revision:

(1) A reanalysis of the NO_x attainment demonstration, modeling results which show the emission reductions necessary to provide for attainment of the NO_x standard by December 31, 1982, and written evidence of commitments in legally enforceable form to implement all necessary measures to provide for attainment by December 31, 1982; or an NO_x analysis which can support an EPA attainment redesignation pursuant to Section 107 of the Clean Air Act.

5. In § 52.238, the entries for the San Diego Intra-state Air Quality Control Region are revised, and footnote (i) is

added to paragraphs (a) through (h), as follows:

§ 52.238 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutants					
	TSP		SO ₂		NO _x	O ₃
	Primary	Secondary	Primary	Secondary		
San Diego Intra-state						
Eastern portion	(e)	(e)	(e)	(e)	(e)	(f)
Western portion	(h)	(h)	(e)	(e)	(h)	(f)

* Note.—Description of the boundary dividing the Eastern and Western portions of the new San Diego Intra-state is set out at 36 FR 22439-40, November 25, 1971.

(f) December 31, 1987.

§§ 52.242, 52.243, 52.244, 52.247, 52.251, 52.257, 52.258, 52.259, and 52.266 [Removed]

6. Sections 52.242, 52.243, 52.244, 52.247, 52.251, 52.257, 52.258, 52.259, and 52.266 are removed and reserved.

(FR Doc. 81-11054 Filed 4-13-81; 8:45 am)

BILLING CODE 6560-38-M

40 CFR Part 52

[A-9-FRL 1792-3]

Approval and Promulgation of Implementation Plans; Nonattainment Area Plans for the State of Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On April 10 and 27, and May 7, 1979 (44 FR 21307, 24880 and 26763) the Environmental Protection Agency (EPA) published notices of proposed rulemaking for the Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley nonattainment area plans (NAPs). On September 9, 1980 (45 FR 59334) EPA published another notice of proposed rulemaking for these areas since revisions to those NAPs were submitted on July 24 and September 18, 1979 and March 17, 1980 which causes EPA to reevaluate the NAPs. The September 9, 1980 notice, which supersedes the April notices and supplements the May notice, proposed to conditionally approve the NAPs, since only minor deficiencies remain with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas."

Further, since the State has provided assurances to correct these minor deficiencies, EPA is today taking final action to conditionally approve the NAPs as revisions to the Nevada State

Implementation Plan (SIP). This action removes the prohibition on construction of major new or modified sources in these areas.

This notice provides a brief summary of the proposed rulemaking notice, discusses public comments, and describes EPA's final action on the NAPs.

DATE: Effective Date: This action is effective April 14, 1981.

ADDRESS: A copy of the NAPs mentioned above is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, Attn: Douglas Grano (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On December 29, 1978 the Governor submitted revisions to the Nevada SIP consisting of control strategies and regulations for Mason Valley/Fernley Area, Carson Desert, Lander County, Winnemucca Segment, Truckee Meadows and Las Vegas Valley. These revisions, which comprise the NAPs, are intended to provide for the attainment of the carbon monoxide (CO), ozone (O₃), and total suspended particulate (TSP) NAAQS, in the Truckee Meadows and Las Vegas Valley areas and the TSP NAAQS in the remaining areas.

On April 10 and 27, and May 7, 1979 (44 FR 21307, 24880 and 26763) EPA published notices of proposed rulemaking for these NAPs in the State of Nevada. Those notices provided a description of the NAPs, summarized the applicable Clean Air Act

requirements into 14 criteria, compared the NAPs to those criteria, and proposed to approve, conditionally approve or disapprove portions of the NAPs. On September 9, 1980 EPA published another notice of proposed rulemaking for these NAPs since revisions to the NAPs were submitted on July 24 and September 18, 1979 and March 17, 1980. The September 9, 1980 notice supersedes the April notices and supplements the May notice. The May 7, 1979 and September 9, 1980 notices should be used as reference in reviewing today's action.

Inspection/Maintenance Program

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emissions control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of noncomplying vehicles is prohibited. This is effectively accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. A windshield sticker system, much like that of many safety inspection programs, can be used if it can be demonstrated that equal effectiveness will be achieved.

Section 172 of the Clean Air Act requires that SIPs for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by 1982, despite the implementation of all reasonably available control measures, an extension beyond 1982 will be granted. In such cases Section 172(b)(1)(B) requires that "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program."

EPA issued guidance on February 24, 1978, on the general criteria for approval of the 1979 SIP revision including I/M, and on July 17, 1978, regarding the specific criteria for I/M approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372). Though the July 17, 1978 guidance should be consulted for details, the key I/M elements required for approval of the 1979 SIP revision are as follows:

(1) **Legal Authority.** States or local governments must have adopted the necessary statutes, regulations,

ordinances, etc., to implement and enforce the I/M program. (Section 172(b)(10)).

(2) *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

(3) *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7)).

(4) *Schedule.* A specific schedule to establish the I/M program must be included in the SIP. (Section 172(b)(11)(B)). Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

(5) *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program.

This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *."

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any 1979 SIP revision which requires I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation. Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan" (Section 172(b)(10)). Under Section 172(B)(7), supporting commitments for

the necessary financial and manpower resources are also required.

A specific schedule to establish an I/M program is required (Section 172(b)(11)(B)). The July 17, 1978 guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control measures as expeditiously as practicable" (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not previously undergone I/M.

Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.

Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on the implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reduction of both CO and HC exhaust emissions by 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion of the nonattainment area plan with Section 172(b)(2).

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 [46 FR 7182]. As discussed in that policy, States with areas that have I/M programs under

development or operational as part of their 1979 SIP revisions were only required to submit qualitative descriptions of their I/M program elements in the 1979 SIP submittal. The 1982 SIP revision must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements. More specifically, the 1982 submittal must include: (1) inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations, and procedures; (9) a public awareness plan; and (10) a mechanics training program if additional emission reduction credits are being claimed for mechanics training.

EPA will determine the overall adequacy of the critical elements of each I/M program, and therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or the State must demonstrate that the program elements are equivalent.

State or local governments that have I/M programs, but plan to increase the coverage and/or stringency of the programs in order to achieve greater reductions and to demonstrate earlier attainment of the standards, must submit the program modifications in legally enforceable form through the 1982 SIP revision process.

In the case of a partial submittal, EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to ensure that the program satisfies the requirements in Part D of the Clean Air Act.

Nevada's I/M Program

On December 29, 1978 the Governor of Nevada submitted Statutes and Regulations which together provide an inspection and maintenance program for portions of Nevada, including the Las Vegas Valley and Truckee Meadows areas. This legislation and supporting regulations establish in progressive steps a mandatory annual I/M program for all used light-duty vehicles being

registered or re-registered in counties with more than 100,000 population. The December 29, 1978 submittal of the Air Quality Regulations for Mobile Equipment provided that, on or after July 1, 1979, such vehicles in Clark and Washoe Counties must have evidence of compliance with State exhaust emission standards. New legislation submitted on July 24, 1979 revises that date and provides for such implementation on or after July 1, 1981.

The program requires a motor vehicle owner to obtain a certificate of compliance with the State emission standards and federal emission control equipment requirements. This certificate must be obtained from a State authorized inspector, complying with all State regulations concerning testing equipment and procedures. The State regulations establish standards for licensing inspection stations, which may include service stations and fleet stations. The inspection test measures emissions from vehicles at both low and fast idle speeds. The engine is then adjusted to the manufacturer's specifications, such as timing and dwell. The emissions are again measured at the two engine speeds. If the measurements after adjustment of the engine are in compliance, the vehicle is issued a certificate of compliance. The inspection with adjustments usually requires 15 to 20 minutes of operator time.

The program provides for exceptions to the requirements of inspection and maintenance. These exceptions include among others, heavy duty motor vehicles, light duty motor vehicles more than 15 years old, and motorcycles. In addition, these requirements do not apply to vehicles changing registration under specific circumstances and vehicles for which necessary repair costs exceed fixed amounts.

Any vehicle not complying with the I/M requirements is prohibited from operating on public roads through denial of registration. No vehicle may be registered if it violates the I/M requirements. In addition, a violation of any regulation under the program is punishable as a misdemeanor. The regulations include a program for informing the public of the reasons and methods for the emission control inspection. As described below, Nevada's I/M program satisfies the key requirements for approval previously described.

(1) *Legal Authority.* The basis for the State's legal authority is contained in the Nevada Revised Statutes, Chapter 445 which provides authority and guidance for the State Environmental Commission and the State Department

of Motor Vehicles to establish an I/M program.

(2) *Commitment.* In a letter from the Governor, to EPA, dated December 29, 1978, and in a resolution adopted by the Clark County Board of Commissioners on December 5, 1978, the State identified its commitments to the implementation and enforcement of the Nevada I/M program submitted as part of the Truckee Meadows and Las Vegas Valley nonattainment area plans (NAPs).

(3) *Resources.* The State has identified its commitments for resources submitted as part of the Truckee Meadows and Las Vegas Valley NAPs.

(4) *Schedules.* The Nevada statute provides that no vehicle shall be registered after July 1, 1981 without a certificate of compliance with the I/M program. This mandatory start-up date for the inspection program is consistent with EPA policy and is therefore approvable.

(5) *Program Effectiveness.* Based on an analysis of Nevada's idle test pass/fail standards, the program will achieve a 25% reduction, thus complying with EPA's requirement for minimum emission reductions.

As indicated above and in the May 7, 1979 and September 9, 1980 notices, Nevada's I/M program meets the 1979 SIP revision requirements and is therefore approvable.

The following elements of Nevada's I/M program, as officially submitted, also satisfy part of the I/M requirements for the 1982 SIP revision.

(1) *Inspection Test Procedures.* Section 4.1 of the Rules describes the test procedure. The procedure includes an exhaust test which demonstrates that proper maintenance has been performed. This element of Nevada's program is therefore approvable.

(2) *Emission Standards.* Section 3.8.2 of the Rules prescribes inspection standards for each class of vehicle subject to testing. This element of Nevada's program is therefore approvable.

(3) *Inspection Station Licensing Requirements.* Section 3.10 of Rules sets forth private inspection facility licensing requirements.

These requirements include:

Use of an approved emission analyzer (Section 3.10.3);

Employing an inspector who has passed proficiency tests in the following areas:

- rules and regulations
- test procedures
- analyzer use and calibration checking, data recording and recordkeeping. (Section 3.10, 3.12)

The licensed station must maintain records and submit to unscheduled, unannounced audits. The station must also comply with local and state program regulations.

This element of Nevada's program is therefore approvable.

(4) *Emission analyzer specifications and maintenance/calibration requirements.* Section 4.2.1 of the Rules lists instrument specifications. Section 4.2.2 cites where a list of approved analyzers is on file. Sections 4.2 and 4.3 outline the maintenance and calibration procedures to be used by the inspection facilities on the approved analyzers. This element of Nevada's program is therefore approvable.

(5) *Recordkeeping and record submittal requirements.* Section 4.1 of the Rules lists required recordkeeping elements. The authorized station shall maintain and submit the records of all inspections to the DMV for data evaluation (Section 4.3.6). Both the Department and Commission will interpret and correlate the submitted data to determine the amount of reductions of emissions achieved (Section 4.3.7).

The data collection procedures utilized allow determination of program effectiveness. This element of the Nevada program is therefore approvable.

(6) *Quality control, audit and surveillance procedures.* Section 4.3 of the Rules states: 1. The Department of Motor Vehicles will inspect and certify that authorized stations are properly equipped and personnel are adequately trained in accordance with DMV procedures. The Department of Motor Vehicles will dynamically calibrate and certify the exhaust gas analyzer at intervals of not more than 30 days. 3. All inspection records shall be made available to the Department of Motor Vehicles and the Environmental Commission or its representatives when conducting a compliance inspection. The licensed station must maintain records and submit to unscheduled, unannounced audits. The station must also comply with local and state program regulations. The program therefore contains the appropriate procedures and a monthly audit with a records check, a calibration check, and a check to assure that procedures are being followed.

It is EPA's understanding from the Department of Motor Vehicles that their inspectors conduct audits which include all elements described in Section 4.3 and that all these items are checked monthly.

Sections 4.9, 4.12, and 4.13 prescribe penalties for offenses by facilities and/or inspectors. These penalties include suspension or revocation of facility licenses for serious offenses. This element of the Nevada program is therefore approvable as long as the Department of Motor Vehicles continues to follow the procedures mentioned above.

(7) *Procedures to assure that non-complying vehicles are not operated on the public roads.* Nevada Revised Statutes 445.670 and 445.710 prohibit the registration of non-complying vehicles.

This element of the Nevada program is therefore approvable.

(8) *Any other official program rules, regulations, and procedures.* Senate Bill 543 specifies geographic coverage.

The Department of Motor Vehicles provides a challenge capability for any motorist who questions the results of inspections conducted at a licensed garage.

The start-up date is consistent with EPA policy.

This element of the Nevada program is therefore approvable.

(9) *A public awareness plan.* The State is currently engaged in various public awareness activities to inform the public about the program. A comprehensive public awareness plan must be developed and officially submitted as part of the SIP.

(10) *A mechanics training program if additional emission reduction credits are being claimed.* No credit is being claimed; therefore this element is not applicable.

On December 29, 1978 the Governor of Nevada submitted Statutes and Regulations which together provide for an inspection and maintenance program for portions of Nevada, including the Las Vegas Valley and Truckee Meadows areas. This legislation and supporting regulations established in detail the parameters of the inspection and maintenance program.

Nevada included in this submittal their demonstration that their program, as described, would achieve a 25% reduction (using Mobile I) in both hydrocarbon and carbon monoxide exhaust emissions from light duty gasoline vehicles by 1987. Since that time, the program start-up date was changed from July 1979 to July 1981. The July 1981 start-up date does not affect the ability of the program to achieve the required emission reductions by 1987. Therefore this element of the 1982 SIP is approvable.

TSP Plans

EPA proposed to approve the following portions of the Mason Valley/

Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows and Las Vegas Valley NAPs for TSP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, legally adopted measures (except for the Las Vegas Valley NAP), emissions growth, annual reporting, permit program, public and government involvement, and public hearings. These provisions were found to be consistent with Part D of the Clean Air Act.

EPA proposed to conditionally approve the following portions of the NAPs mentioned above for TSP: legally adopted measures (for the Las Vegas Valley NAP only) and resources. These portions were found to contain minor deficiencies with respect to Part D and were proposed to be approved with the condition that each deficiency be corrected by a specified deadline.

CO and O₃ Plans

EPA proposed to approve the following portions of the Truckee Meadows and Las Vegas Valley NAPs for CO and O₃: emission inventory, modeling, emission reduction estimates, attainment provision (except for Las Vegas Valley O₃), reasonable further progress, legally adopted measures (for Truckee Meadows O₃ only), emissions growth, annual reporting, permit program, public and government involvement, public hearing, and extension requirements for Volatile Organic Compounds, Reasonably Available Control Technology (VOC RACT). These provisions were found to be consistent with Part D of the Clean Air Act.

EPA proposed to conditionally approve the following portions of the Truckee Meadows and Las Vegas Valley NAPs for CO and O₃: attainment provision (Las Vegas Valley O₃ only), legally adopted measures (except for Truckee Meadows O₃), resources, and extension requirements (Las Vegas Valley CO only). These portions were found to contain minor deficiencies with respect to Part D and were proposed to be approved with the condition that each deficiency be corrected by a specified deadline.

Summary

As noted in the September 9, 1980 notice, approval or conditional approval of all portions of the NAPs is sufficient to lift the current prohibition on construction of certain major new or modified sources in the affected areas of Nevada. Thus, that notice proposed to conditionally approve the overall Nevada NAPs and remove the construction prohibition.

Public Comments

Comments Specific to the Nevada NAP

During the public comment period, EPA received several comments. For the most part the comments are specific to the Las Vegas Valley NAP. These comments and EPA's responses follow.

1. Emission Inventory.

Comments were received supporting EPA's actions.

2. Modeling.

Comment: Tomlinson and Chalmers, representing Concerned Citizens of Clark County, commented that the ozone model is not validated and that EPA's evaluation report did not adequately justify use of the NAP's ozone design value.

Response: Although the model is not fully validated, EPA's guidelines on air quality modeling were used and EPA has determined that the ozone modeling was performed satisfactorily for the 1979 NAP. In addition, EPA reviewed all of the available ozone air quality data for Clark County. In its review, EPA found that data collected by a private contractor were not used in determining the design value. In discussions with EPA, the County indicated that the data were not used in the NAP since the data were collected under a questionable quality assurance program and since this data is not part of the official SIP monitoring network. Therefore, EPA found that the NAP's data base was adequate for determining the ozone design value.

Comment: Tomlinson and Chalmers also commented that EPA's evaluation report seems to be generally inadequate with regard to CO modeling.

Response: EPA's guidelines on air quality modeling were used in determining that the CO modeling was performed satisfactorily for the NAP.

3. Emission Reduction Estimates.

Comments were received supporting EPA's actions.

4. Attainment Provision.

Comment: The Nevada Division of Environmental Protection (NDEP) commented that the Las Vegas Valley is not nonattainment for ozone and thus should not be subject to the proposed rulemaking. They attached a copy of the Nevada 1979 Air Quality Trend Report to support this comment.

Response: The Las Vegas Valley is designated and should remain nonattainment for ozone (43 FR 9012, March 3, 1978). Contrary to the 1979 Nevada Air Quality Report, Clark County Health District data show three days with violations of the ozone standard at the Henderson (Carson Way) station in 1979. Based on this

preliminary data, the EPA criteria for redesignation to attainment or unclassifiable have not been met. One (1.0) or less expected exceedances of the national standard per year at each monitor averaged over at least one year (maximum of 3 years if data is available) is necessary for such a redesignation. The procedure for calculating expected exceedances may be found at 40 CFR 50, Appendix H, promulgated on January 12, 1979.

5. Reasonable Further Progress.

Comments were received supporting EPA's actions.

6. Legally Adopted Measures.

Comment: The Clark County Department of Comprehensive Planning (DCP) commented that since I/M, traffic flow improvements and mass transit and ride-sharing programs are currently being implemented, they do not feel that additional actions are required to fulfill the proposed condition regarding commitments and schedules for transportation control measures.

Response: As noted in the notice of proposed rulemaking, schedules for analysis and development of additional control measures are needed in areas which will not attain the CO NAAQS by 1982. While it may be true that the transportation measures have been implemented for the current year, the plan does not provide written evidence that all implementing agencies have committed to a program of transportation projects which will continue to be implemented as needed to demonstrate attainment. Such policy level resolutions, including the commitment to seek and provide annual evidence of continuing funding, need to be submitted as a part of the NAP. Thus, the condition must remain.

7. Emissions Growth.

8. Annual Reporting.

9. Permit Program.

Comments were received supporting EPA's actions regarding these three criteria.

10. Resources.

Comment: DCP indicated that the condition regarding resource commitments would be satisfied in proposed revisions and annual updates which would detail budgeting commitments for future years.

Response: Until these revisions are officially submitted and reviewed, EPA cannot make any final determination on the adequacy of the revisions. Therefore, the condition remains the same.

11. Public and Government Involvement.

12. Public Hearing.

Comments were received supporting EPA's actions regarding these two criteria.

13. Extension Requirements.

Comment: The NDEP stated that statutes and regulations have been submitted regarding cost-benefit regulations for power plants.

Response: On October 13, 1980 EPA received a letter from the Governor of Nevada. In that letter he advised EPA of an SIP revision, regarding power plants; the specific statute and regulation to be transmitted by the NDEP. Until EPA receives the statutes and regulations along with evidence of notice and public hearing, no action can be taken on this revision. Thus, the condition remains.

Comment: In response to the May 7, 1979 notice of proposed rulemaking, Clark County and the NDEP commented that the Nevada State Legislature recently amended the State statute regarding the I/M program and delayed implementation of the program until July 1, 1981.

Response: This amendment to the State statute is discussed in the September 9, 1980 proposed rulemaking notice. As indicated in that notice the delayed implementation does not alter EPA's approval of the Nevada I/M program.

Comment: The NDEP commented that they disagree with the proposed conditions requiring the State to submit certain plan revisions. They stated that the DCP has submitted revisions to the NAP that demonstrate the NAP has legally enforceable measures to control TSP and has shown a commitment of resources to meet basic transportation needs.

Response: EPA has not received the above mentioned measures or commitment as revisions to the SIP. Therefore, the condition remains.

Comment: DCP also commented that commitments for basic transportation needs (BTN) are subject to budgetary and manpower constraints. However, their proposed plan revisions contain the County's short range transit program which provides for the most expeditious implementation program available to the County.

Response: Clark County is required to provide the essential policy level commitment to establish, expand or improve public transportation to meet basic transportation needs. This commitment is distinguished from budgetary commitments in that specific resources will need to be shown on an annual basis when Clark County has completed its analysis of public transportation needs (including demand created by any disincentives to private auto use that may be necessary to demonstrate attainment) and subsequently develops the strategy to meet basic transportation needs. The

policy resolution currently required represents an acknowledgement of the requirements of Sections 110(a)(3)(D) and (c)(5)(B) and a commitment to develop necessary improvements, as indicated by the analysis.

Comment: Tomlinson and Chalmers commented on the failure of the Las Vegas Valley NAP: 1) to define or demonstrate a commitment for public transportation to meet basic transportation needs, and 2) to identify, analyze, or commit to transportation control measures to provide for attainment. In addition, they commented that EPA's proposed condition does not specify any limits upon the schedules to be submitted.

Response: These two deficiencies were the subjects of several conditions of approval in EPA's Notice of Proposed Rulemaking, wherein EPA required the submittal of commitments and schedules by January 1, 1981. These conditions remain in today's final rulemaking. With respect to the limits on schedules for analysis and development of additional measures necessary to demonstrate attainment, all analyses must be completed to allow sufficient time for development and initial implementation of those measures found to be reasonably available no later than December 31, 1982, and for inclusion of those measures in the July 1, 1982 SIP submittal. Measures necessary to meet basic transportation needs must be included in the 1982 submittal.

General Comments

Comment: In response to EPA's April 10 and 27, 1979 notices, several comments were received during the public comment period.

Response: On September 9, 1980 EPA published a notice of proposed rulemaking for several areas in Nevada. The September 9, 1980 notice supersedes the discussion in the April 10 and 27, 1979 notices; therefore, comments on the April notices will not be addressed.

Comment: Tomlinson and Chalmers commented that there is no authorization for conditional approvals and that a conditional approval of the Nevada NAP is an abuse of any discretion that might exist.

Response: EPA policy (July 2, 1979 Federal Register, 44 FR 38583) provides that when a plan has been revised so as to be in substantial compliance with the requirements of Part D, and the State provides assurances that any remaining minor deficiencies will be remedied within a short period, imposition of the restriction on new sources during that period would not serve the Congressional purpose. Therefore, under

such circumstances EPA interprets the Clean Air Act to permit the plan to be conditionally approved as satisfying Part D requirements. Therefore, there is no abuse of discretion.

Comment: Tomlinson and Chalmers also requested an extension of the comment period to submit additional comments.

Response: EPA believes the available period for comments was adequate because:

(1) The NAPs and the I/M program have been available for public inspection and comment since they were the subject of Notices of Proposed Rulemaking on April 10 and April 27, 1979; and

(2) The issues involved in the revisions submitted on July 24 and September 18, 1979, and March 17, 1980 are limited in scope and are sufficiently clear to allow comments to be developed in the available 30-day period.

Comment: DCP stated that revisions, which are expected to meet the conditions, will soon be adopted by the County. They felt that adoption and submittal of these revisions would fulfill the conditions specified in the notice.

Responses: Until these revisions are officially submitted and reviewed, EPA cannot make any final determination on the adequacy of these revisions. Therefore, the conditions must remain.

National Comments

One commenter submitted extensive comments and requested that they be considered part of the record for each state plan. Another commenter, a national environmental group, discussed EPA action on permit fee systems and the composition of state boards. Although some of the issues raised are not relevant to provisions in the Nevada NAPs, the November 10, 1980 Federal Register (44 FR 74480) should be referenced for a discussion of these comments and EPA's responses.

EPA Actions

Introduction

It is important for reviewers of this notice to understand the overall nature of NAPs and of EPA's review and approval role. Central to such an understanding is recognition that action may be taken on a portion of the NAPs for a specific pollutant.

Therefore, a portion of the NAPs may be adequate for one pollutant but inadequate for others. It is EPA's policy to take final action on all portions of the NAPs for each pollutant. As a result, this notice contains a series of actions for each pollutant and for each portion

of the NAPs rather than a single action. One of the following three actions may be taken for each portion of the NAPs:

1. Disapproval where the State does not agree to correct minor deficiencies or where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

2. Approval where the portion of the NAP under consideration meets all requirements; or

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and the State has agreed to take those steps necessary to correct the deficiency.

In this case, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency by certain dates.

EPA's final actions on the Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley NAPs are described below and are based on the proposed rulemaking notices and the public comments received by EPA.

Approved Portions of the NAPs I/M

As proposed in the May 7, 1979 and September 9, 1980 notices, EPA is taking final action under Part D to approve the statutes and rules listed in those notices regarding the Nevada I/M program. The approved statutes and rules form the basis of Nevada's I/M program and satisfy the key I/M elements required for approval of the 1979 SIP revision. EPA is therefore approving the I/M portion of the 1979 SIP revision.

In addition, the statutes and rules also satisfy a number of the I/M requirements for approval of the 1982 SIP revision. EPA is taking final action today to approve those completed elements of Nevada's I/M program which satisfy certain requirements for the 1982 SIP revision, namely: inspection test procedures; emission standards; inspection station licensing requirements; emission analyzer specifications, and maintenance/calibration requirements; recordkeeping and record submittal requirements; quality control, audit and surveillance procedures; procedures to assure that non-complying vehicles are not operated on the public roads; and other official program rules, regulations and procedures as noted above. However, today's action is *not* intended nor should it be interpreted as final approval of Nevada's total I/M program or the I/M portion of the 1982 SIP revision. Approval of the revision can only be granted after the public awareness

element required by the 1982 SIP policy (46 FR 7182, January 22, 1981) is submitted and reviewed in order to assure that Nevada's total I/M program and the I/M section of Nevada's SIP satisfy the requirements of Part D of the Clean Air Act.

The following statutes and regulations, applicable to both the 1979 and 1982 SIP revisions, are being approved and incorporated into the Nevada SIP.

Nevada Revised Statutes: 445.610, 445.620, 445.625, 445.630, 445.632, 445.634, 445.635, 445.640, 445.644, 445.650, 445.660, 445.670, 445.680, 445.690, 445.700, 445.705, and 445.710.

Nevada Air Quality Regulations for Mobile Equipment: Article 1—Sections 1.1 to 1.38; Article 2—Sections 2.1 to 2.2; Article 3—Sections 3.1 to 3.14.6; and Article 4—Sections 4.1 to 4.20.

EPA will take action to approve the I/M portion in total upon receipt from the State of an adequate public awareness plan.

The State should be aware that annual reports must be made to EPA on the effectiveness of program implementation and enforcement (42 U.S.C. 7410(s)(2)(B), 7414 and 40 CFR 51.321—51.328).

TSP

As proposed in the September 9, 1980 notice, EPA is taking final action under Part D of the Clean Air Act to approve the following portions of the Nevada NAPs: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, legally adopted measures (except the Las Vegas Valley NAP), emissions growth, annual reporting, permit program, public and government involvement, and public hearings.

CO and O₃

As proposed in the September 9, 1980 notice, EPA is taking final action under Part D of the Clean Air Act to approve the following portions of the Truckee Meadows and Las Vegas Valley NAPs: emission inventory, modeling, emission reduction estimates, attainment provision (except for Las Vegas Valley O₃), reasonable further progress, legally adopted measures (for Truckee Meadows O₃ only), emissions growth, annual reporting, permit program, public and government involvement, public hearing, and extension requirements for VOC RACT.

Conditionally Approved Portions of the NAP

TSP

As discussed in the September 9, 1980 notice and in the PUBLIC COMMENTS section of this notice, the following portions of the Nevada NAPs contain minor deficiencies and the State has provided assurances to correct these deficiencies: legally adopted measures (for the Las Vegas Valley NAP only) and resources. Therefore, EPA is taking final action to conditionally approve these portions of the NAPs.

CO and O₃

As discussed in the September 9, 1980 notice and in the PUBLIC COMMENTS section of this notice, the following portions of the Truckee Meadows and Las Vegas Valley NAPs contain minor deficiencies and the State has provided assurances to correct these deficiencies: attainment provision (Las Vegas Valley O₃ only), legally adopted measures (except for Truckee Meadows O₃), resources, and extension requirements (Las Vegas Valley CO only). Therefore, EPA is taking final action to conditionally approve these portions of the NAPs.

The conditions of approval and the associated deadlines are specified below:

Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows and Las Vegas Valley NAPs for Total Suspended Particulates.

By August 12, 1981, the State must submit an identification and commitment of resources specifically identifying and budgeting all financial and manpower resources necessary for plan implementation.

Truckee Meadows NAP For CO

By August 12, 1981, the State must submit commitments for adopted measures and schedules for the analysis of the other measures listed in Section 108(f).

Las Vegas Valley NAP for CO, O₃ and TSP

1. By August 12, 1981, the State must submit a demonstration showing attainment by December 31, 1982 of the 0.12 ppm (or the 0.08 ppm) standard for the ozone portion of the plan.

2. By August 12, 1981, the State must submit the measures referenced in the June 22, 1979 letter from the Clark County Manager for the TSP portion of the plan.

3. By August 12, 1981, the State must submit the adopted measures and schedules for the analysis of the other

measures listed in Section 108(f) for the CO portion of the plan.

4. By August 12, 1981, the State must submit regulations for the review and permitting of fossil fuel-fired electric steam generators.

5. By August 12, 1981, the State must submit a commitment to establish, expand, or improve public transportation to meet basic transportation needs for the CO portion of the plan.

6. By August 12, 1981, the State must submit commitments and schedules to analyze further the Section 108(f) measures not yet included in the CO portion of the plan and a commitment to initiate implementation of those measures shown to be reasonably available.

Final Action on the NAP

As described in the September 9, 1980 notice, only minor deficiencies remain in the Nevada NAPs. Therefore, EPA is taking final action today to conditionally approve the overall Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley NAPs with respect to Part D. As a result, the current prohibition on construction of certain major new or modified sources in those areas is no longer in effect.

EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibitions, since the State has submitted conditionally approvable NAPs for Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley. Therefore, EPA finds that good cause exists for making this action immediately effective.

Under Section 307(b)(1) of the Clean Air Act, judicial review of today's action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble [44 FR 38583 (July 2, 1979) and 44 FR 67192 (November 23, 1979)]. Conditional approval requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines being promulgated

today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the *Federal Register* announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a *Federal Register* notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the NAP, or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the NAP. If the NAP is disapproved, the Section 110(a)(2)(I) restrictions on construction would be reimposed.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a *Federal Register* notice shortly after the expiration of the deadline. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) restrictions on construction are in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See U.S.C. Section 553(b)(B), Administrative Procedure Act). The State is the party responsible for meeting the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 59334, September 9, 1980).

New Source Review Requirements

It should be noted that EPA has published two final rulemaking notices on the September 5, 1979 proposed amendments to EPA's New Source Review (NSR) regulations and the Emission Offset Interpretative Ruling. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's Interpretative Ruling and set out new requirements for NSR under Section 173. The State, Clark County, and Washoe County are required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the State and local NSR rules, the State and local agencies must

address any requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which these rules do not currently satisfy.

VOC RACT Requirements

The April 4, 1979 General Preamble (44 FR 20376) describes the requirements for agencies to submit VOC RACT regulations for certain sources located in ozone nonattainment areas. The first set of RACT regulations were required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations are required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II documents were to have been submitted by January 1, 1981 (45 FR 78121, November 5, 1980). Regulations must be submitted in order for the Part D requirements of the ozone portions of the Las Vegas Valley and Truckee Meadows NAPS to continue to be fully approvable. Further, these requirements have been set forth in 40 CFR 52.1472. Action on the Group II RACT regulations will be handled in a separate Federal Register notice.

40 CFR Part 52 Rescissions. As a result of EPA's final promulgation of conditional approval for the Las Vegas Valley and Truckee Meadows NAPS, EPA is also taking final action to rescind the following Federally promulgated regulations from 40 CFR Part 52.

52.1478 Review of New Sources and Modifications. The new source review regulation submitted on July 24, 1979 for the Washoe County District Health Department fulfills the requirements of § 51.18(c).

§ 52.1483 Maintenance of the National Standards. The NAPS for Las Vegas Valley and Truckee Meadows (Reno) fulfill the requirements of § 51.12 (e) and (f).

§ 52.1484 Control Strategy: Carbon Monoxide. The control strategy demonstration contained in the Las Vegas NAP fulfills the requirements of § 51.14 for carbon monoxide.

Attainment Dates. The 1980 edition of 40 CFR Part 52 lists, in the Subpart for Nevada, the applicable deadlines for attaining the NAAQS (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Nevada's attainment date chart in 40 CFR Part 52.

The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373-74, [April 4, 1979]).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Pursuant to the provisions of 5 U.S.C. § 605(b) I hereby certify that the attached rule will not have a significant

economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state action would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only approves State actions. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response are available for public inspection at EPA Region IX, Air and Hazardous Materials Division, 215 Fremont Street, San Francisco, CA 94105.

(Sections 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended [42 U.S.C. § 7410, 7429, 7501 to 7508, and 7601 (a)])

Dated: April 8, 1981.

Walter C. Barber,
Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1980.

Subpart DD of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. Section 52.1470(c) is amended by revising the introductory text of subparagraph (14) and adding subparagraphs (14)(iii), (14)(iv), (14)(v), (16), (17) and (18) as follows:

§ 52.1470 Identification of plan.

(c) * * *

(14) The following amendments to the plan were submitted on December 29, 1978, by the Governor.

(iii) Nonattainment area plans for Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows, and Las Vegas Valley.

(iv) Nevada Revised Statutes, Engine Emission Controls: 445.610, 445.620, 445.625, 445.630, 445.640, 445.650, 445.660, 445.670, 445.680, 445.690, 445.700, 445.705, and 445.710.

(v) Nevada Air Quality Regulations for Mobile Equipment: Article 1—Sections 1.1 to 1.38; Article 2—Sections

2.1 to 2.2; Article 3—Sections 3.1 to 3.14.6; and Article 4—Sections 4.1 to 4.20.

(16) The following amendments to the plan were submitted on July 24, 1979, by the Governor.

(i) Amendments to the Nevada Air Quality Regulations: Article I—Definition: No. 2—LAER.

(ii) Amendments to the Clark County District Board of Health Air Pollution Control Regulations: Section 15—Source Registration, 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8, 15.9, 15.10, 15.11, and 15.12; Section 50—Storage of Petroleum Products; Section 51—Petroleum Product Loading into Tank Trucks, and Trailers; and Section 52—Handling of Gasoline at Service Stations, Airports and Storage Tanks.

(iii) Amendments to the Washoe County District Board of Health Air Pollution Control Regulations: Definitions, Sections 010.011, 010.014, 010.028, 010.057, 010.059, 010.071, 010.072, 010.091, 010.106, 010.107B, 010.108, 010.116, 010.117, 010.136, 010.148, 010.149, 010.151, 010.166, 010.197, and 010.1751; Source Registration and Operation, Sections 030.000, 030.005, 030.010, 030.015, 030.025, 030.030, 030.110, 030.115 (1 and 5)B, 030.120, 030.1201, 030.205, 030.210, 030.215, 030.245, and 030.250; Section 040.070—Storage of Petroleum Products; Section 040.075—Gasoline Loading into Tank Trucks and Trailers; Section 040.080—Gasoline Unloading from Tank Trucks and Trailers into Storage Tanks; Section 040.085—Organic Solvents; and Section 040.090—Cut-Back Asphalt.

(iv) Paving schedules for the following Nonattainment Area Plans: Mason Valley/Fernley Area, Carson Desert, Winnemucca Segment, and Lander County.

(v) Amendments to the Las Vegas Valley Nonattainment Area Plan: Two memoranda of understanding between Clark County, the Health District, and the Transportation Policy Committee.

(vi) Nevada Revised Statutes, Engine Emission Control: 445.632, 445.634, 445.635, and 445.644.

(17) The following amendments to the plan were submitted on September 18, 1979, by the Governor.

(i) Amendments to the Clark County District Board of Health Air Pollution Control Regulations: Section 1—Definitions [except 1.14, 1.15, 1.79, and 1.94]; Section 15.14—Source Registration

Requirements for Areas Exceeding Air Quality Standards; and Section 80—Evaporation and Leakage.

(18) Amendments to the Nevada Air Quality Regulations submitted on March 17, 1980, by the Governor.

(i) Article 13.1.3—Point Sources and Registration Certificates.

2. Section 52.1472 is revised to read as follows:

§ 52.1472 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Nevada's plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act.

(b) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in 1977, for the nonattainment areas listed in this paragraph.

(1) Mason Valley/Fernley Area for TSP.

(2) Lower Reese River Valley/Clovers Area for TSP.

(3) Carson Desert for TSP.

(4) Winnemucca Segment for TSP.

(5) Truckee Meadows for TSP and CO.

(6) Las Vegas Valley for TSP and CO.

(c) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in the 1977, for the nonattainment areas listed in this paragraph. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the State Implementation Plan (SIP) depends on the adoption and submittal by January 1, 1981 of reasonably available control technology (RACT) requirements for sources covered by Control Technique Guidelines (CTG's) published between January 1978 and January 1979.

(1) Truckee Meadows for O₃.

(2) Las Vegas Valley for O₃.

3. Subpart DD of Part 52 is amended by adding § 52.1474, reading as follows:

§ 52.1474 Part D conditional approval.

(a) The following portions of the Nevada SIP contain deficiencies with respect to Part D of the Clean Air Act which must be corrected within the time limit indicated.

(1) The Mason Valley/Fernley Area, Lander County, Carson Desert, Winnemucca Segment, Truckee Meadows and Las Vegas Valley portions of the Nevada SIP are approved as satisfying Part D requirements for total suspended particulate provided the following conditions are met:

(i) By August 12, 1981, the State must submit an identification and commitment of resources specifically identifying and budgeting all financial and manpower resources necessary for plan implementation for all the plans listed above.

(ii) By August 12, 1981, the State must submit the measures referenced in the June 22, 1979 letter from the Clark County Manager for the Las Vegas Valley plan only.

(2) The Truckee Meadows portion of the Nevada SIP is approved as satisfying Part D requirements for carbon monoxide provided the following condition is met:

(i) By August 12, 1981, the State must submit commitments for adopted measures and schedules for the analysis of the other measures listed in Section 108(f).

(3) The Las Vegas Valley portion of the Nevada SIP is approved as satisfying Part D requirements for carbon monoxide and ozone provided the following conditions are met:

(i) By August 12, 1981, the State must submit a demonstration showing attainment by December 31, 1982 of the 0.12 ppm (or the 0.08 ppm standard for the ozone portion of the plan).

(ii) By August 12, 1981, the State must submit the adopted measures and schedules for the analysis of the other measures listed in Section 108(f) for the CO portion of the plan.

(iii) By August 12, 1981, the State must submit regulations for the review and permitting of fossil fuel-fired electric steam generators.

(iv) By August 12, 1981, the State must submit a commitment to establish, expand, or improve public transportation to meet basic transportation needs for the CO portion of the plan.

(v) By August 12, 1981, the State must submit commitments and schedules to analyze further the Section 108(f) measures not yet included in the CO portion of the plan and a commitment to initiate implementation of those measures shown to be reasonably available.

§ 52.1478 [Reserved]

4. Section 52.1478 is removed and reserved.

5. The table and the "note" in § 52.1480 are revised. A new note and footnotes "e" and "f" are added. Footnotes "a" through "d" are unchanged.

§ 52.1480 Attainment Dates for National Standards.

Air quality control region and nonattainment area	Pollutants					
	TSP		SO ₂		NO _x	CO
	Primary	Secondary	Primary	Secondary		
Las Vegas Intrastate	e	e	a	a	c	f
Northwest Nevada Intrastate:						
Fremont Area	e	e	c	c	c	d
Truckee Meadows	e	e	c	c	c	f
Mason Valley	e	e	c	c	c	c
Remainder of Intrastate	July 1975	July 1977	c	c	c	c
Nevada Intrastate:						
Carson Desert	e	e	b	b	c	c
Winnemucca Segment	e	e	b	b	c	c
Lower Reese River Valley	e	e	b	b	c	c
Clovers Area	e	e	b	b	c	c
Remainder of Intrastate	July 1975	July 1977	b	b	c	c

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date or the date provided is not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1480 (1980).

(e) December 31, 1982.

(f) December 31, 1987.

6. Section 52.1481 is revised to read as follows:

§ 52.1481 Extensions.

(a) The Administrator hereby extends to July 31, 1977, the attainment date for the primary standards of sulfur oxides in the Nevada Intrastate Air Quality Control Region. In the event that the source subject to § 52.1475(d) is granted permission to comply with § 52.1475(e) the attainment date for the primary standards for sulfur oxides in the Nevada Intrastate Air Quality Control Region shall be extended only to January 1, 1977.

(b) The Administrator hereby extends to December 31, 1982 certain attainment dates for the National standards for carbon monoxide (CO), ozone (O₃), and total suspended particulates (TSP) in the following areas:

- (1) Truckee Meadows for CO and TSP.
- (2) Las Vegas Valley for O₃ and TSP.
- (3) Mason Valley/Fernley Area for TSP.
- (4) Lower Reese River Valley/Clovers Area for TSP.
- (5) Carson Desert for TSP.
- (6) Winnemucca Segment for TSP.

(c) The Administrator hereby extends to December 31, 1987 certain attainment dates for the national standards for CO and O₃ in the following areas:

- (1) Truckee Meadows for O₃.
- (2) Las Vegas Valley for CO.

40 CFR Part 52

[A-5-FRL 1789-8]

Ohio; Approval and Promulgation of Air Quality Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves two revisions to the Ohio State Implementation Plan for sulfur dioxide for the Interlake Incorporated Toledo Plant and the Koppers Company Incorporated Toledo Coke Plant which are located in Lucas County, Ohio. The combined revision will result in a net decrease in the allowable emissions and will therefore result in an improvement in the air quality in Lucas County, Ohio.

EFFECTIVE DATE: May 14, 1981.

FOR FURTHER INFORMATION CONTACT:

Debra Marcantonio, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On May 31, 1977 (42 FR 27588) EPA promulgated final regulations establishing a State Implementation Plan (SIP) for the control of sulfur dioxide (SO₂) for the majority of sources in Lucas County, Ohio. This final rule amends that SIP as it applies to the Interlake Incorporated (Interlake) Toledo Plant and the Koppers Company Incorporated (Koppers) Toledo Coke Plant in Lucas County, Ohio.

Interlake submitted a request for a SIP revision on May 29, 1979 based on operational changes at the facility. At the time the SIP for this facility was promulgated by EPA (May 31, 1977, 42 FR 27588), Interlake owned and

operated a coke battery, a blast furnace, a pig iron casting facility, a steam generator, and an electric power generator. Interlake has since sold the coke battery to Koppers and terminated operations at all other facilities except for the electric power generating facility which consists of three 66.9 MW (228.3 MMBTU/hr) boilers. In the May 31, 1977 regulation, these three boilers were given a total allowable SO₂ emission rate of 31.1 kg/hr (68.5 lbs/hr). This SIP revision will reduce the allowable SO₂ emission rate for Interlake to 13.6 kg/hr (30.0 lbs/hr). The remaining 17.5 kg/hr (38.5 lbs/hr) of SO₂ emission offsets are to be given to Koppers.

Koppers submitted a request for a SIP revision on June 29, 1979. To obtain permits for two new boilers, Koppers was required to obtain SO₂ emission offsets since the source is located in a nonattainment area. The Prevention of Significant Deterioration regulations are not applicable because both sources are located in a nonattainment area. In addition to the offsets received from Interlake, Koppers reduced the emission limitation on its coke battery (purchased from Interlake) from 2.0 kg/ton (metric) to 1.89 kg/ton (metric) (4.00 to 3.38 lbs SO₂ per ton) of actual process weight input. A summary of the previous and revised emissions is shown below.

Koppers/Interlake Emissions

(Kilograms per hour (pounds per hour))

Source	Previous SO ₂ emissions	Revised SO ₂ emissions
Interlake B006-8	31.1(68.5)	13.6(30.0)
Interlake coke battery	87.4(192.7)	
Koppers B001-2		11.5(25.4)
Koppers coke battery		73.8(162.8)
Total emissions	118.5(261.2)	98.9(218.2)

Further discussion of the modeling analysis for the two SIP revisions can be found in the proposed rule published in the Federal Register on September 9, 1980 (45 FR 59339) and in the Technical Support Document which is available in Docket #5A-80-1.

The Agency reviewed the two SIP submittals and on September 9, 1980, EPA proposed approval of these revisions (45 FR 59399). During the public comment period, two commenters submitted comments. One commenter was in full support of the proposed revisions since they should result in an improvement in the air quality in Lucas County. The other commenter raised several issues which are discussed below.

Issue: The commenter claimed that use of RAM-urban to predict annual average concentrations in the Koppers-

§ 52.1483 and 52.1484 [Reserved]

7. Sections 52.1483 and 52.1484 are removed and reserved.

[FR Doc. 81-11319 Filed 4-13-81; 8:45 am]

BILLING CODE 6560-38-M