local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct-final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

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

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

Dated: April 18, 1996.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(196)(i)(C)(*2*), (215)(i)(A)(*5*), and (225)(i)(D) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(196) * * *

(i) * * *

(C) * * *

(*2*) Rules 325 & 326, adopted on January 25, 1994 and December 14, 1993, respectively.

* * * * *

(215) * * *

(i) * * *

(A) * * *

(*5*) Rule 1124, adopted January 13, 1995.

* * * * *

(225) * * *

(i) * * *

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

(*1*) Rule 4602, adopted June 15, 1995.

* * * * *

[FR Doc. 96–11205 Filed 5–3–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[OH93–1–7290a; FRL–5467–3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the Particulate Matter contingency measures State implementation plan (SIP) revisions submitted by the State of Ohio on July 17, 1995. This submittal addresses the Federal Clean Air Act requirement to submit contingency measures for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM) for the areas designated as nonattainment for the PM National Ambient Air Quality Standards (NAAQS). In Ohio, Cuyahoga County and portions of Jefferson County are designated as nonattainment for PM. Contingency measures are emission reductions which are to be implemented, with no further action, in the event that an area fails to meet air quality standards. This submittal would result in an emissions reduction of 34 pounds of PM per hour in Cuyahoga County, and 2.9 pounds of PM per hour in Jefferson County if implementation of the contingency measures becomes necessary.

DATES: This action is effective on July 5, 1996, unless EPA receives adverse or critical comments by June 5, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

In Ohio, Cuyahoga County and portions of Jefferson County are designated as nonattainment for PM and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act. See 56 FR 56694 (Nov. 6, 1991); 40 CFR 81.336. The air quality planning requirements for moderate PM nonattainment areas are set out in subparts 1 and 4 of part D, Title I of the Clean Air Act. The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Clean Air Act, including those State submittals containing moderate PM nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this action and the supporting rationale.

Those States containing initial moderate PM nonattainment areas were required to submit contingency measures by November 15, 1993 (see 57 FR 13543). This contingency plan supplements the attainment plan, and must include measures that become effective, without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve reasonable further progress (RFP) or to attain the PM NAAQS by the applicable statutory deadline. See section 172(c)(9)of the Clean Air Act and 57 FR 13510–13512 and 13543–13544.

II. Analysis of State Submittal

The Ohio Environmental Protection Agency (OEPA) submitted a requested SIP revision to the EPA with a letter dated July 17, 1995. The submittal

contained Findings and Orders for facilities which identified reasonably available PM emissions reductions as contingency measures pursuant to Ohio Administrative Code Rule 3745–17–14. Specifically, Findings and Orders for the following facilities were included: Ford Motor Company, Cleveland Casting Plant, T & B Foundry Company, International Mill Service, Luria Brothers, United Ready Mix.

A. Procedural Requirements

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see Section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The State of Ohio, after providing adequate notice, held a public hearing on May 31, 1995, regarding the PM contingency measures. Following the public hearing, the final Findings and Orders were signed by the Director of the Ohio Environmental Protection Agency (OEPA) on July 10, 1995.

The submittal was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittal was found to be complete and a letter dated July 20, 1995, was sent to the State indicating the completeness of the submittals and the next steps to be taken in the review process.

B. Contingency Measures

The Clean Air Act requires States containing PM nonattainment areas to adopt contingency measures that will take effect without further action by the State or EPA upon a determination by EPA that an area failed to make RFP or to timely attain the applicable NAAQS, as described in section 172(c)(9). See generally 57 FR 13510–13512 and 13543–13544. Pursuant to section 172(b), the Administrator has established a schedule providing that states containing initial moderate PM nonattainment areas shall submit SIP revisions containing contingency measures no later than November 15, 1993. (See 57 FR 13543, n. 3.)

The General Preamble further explains that contingency measures for PM should consist of other available control measures, beyond those necessary to meet the core moderate area control requirements to implement reasonably available control measures and to assure attainment (see Clean Air Act sections 172(c)(1), and 189(a)(1) (A) and (C). Based on the statutory structure, EPA believes that contingency measures must, at a minimum, provide for continued progress toward the attainment goal during an interim period between any prospective determination that the SIP has failed to achieve RFP or provide for timely attainment of the NAAQS and the additional formal air quality planning following the determination (57 FR 13511). PM contingency measures are also addressed in a memo from the Acting Chief of the Sulfur Dioxide/ Particulate Matter Programs Branch, Air Quality Management Division to the Air Branch Chiefs of EPA Regions 1–10 dated August 20, 1991. This memo suggests that PM contingency emissions reductions for moderate nonattainment areas should represent one year's RFP. For example, reductions equal to 25 percent of the total reduction in actual emissions in the SIP control strategy would be appropriate for a moderate nonattainment area since the control strategy must generally be implemented within a 3 to 4-year period between SIP development and the attainment date.

Section 172(c)(9) of the Act specifies that contingency measures shall ''take effect * * * without further action by the State, or the [EPA] Administrator.'' EPA has interpreted this requirement (in the General Preamble at 57 FR 13512) to mean that no further rulemaking activities by the State or EPA would be needed to implement the contingency measures. In general, EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure to attain the standard or make RFP.

The EPA recognizes that certain actions, such as notification of sources, modification of permits, etc., may be needed before some measures could be implemented. However, States must show that their contingency measures can be implemented with minimal further administrative action on their part and with no additional rulemaking action such as public hearing or legislative review.

Ohio Administrative Code (OAC) Rule 3745–17–14 (approved by the EPA on May 27, 1994, 59 FR 27464) requires principal facilities in the PM nonattainment areas to submit control strategies and compliance schedules to the OEPA which would reduce particulate emissions by 15 and 25 percent. OAC Rule 3745–17–14 also requires that the control strategies and compliance schedules be approved by the Director of the OEPA (as Findings and Orders) and submitted to the EPA as a revision to the Ohio PM SIP. The rule further specifies that the requirements of the Findings and Orders are to be implemented by each facility upon receipt of a formal determination and notification by the OEPA or the EPA that the area is not in compliance with the NAAQS. Whether the 15 percent or the 25 percent control strategy would be implemented will depend on the severity of any actual violations.

The OEPA received contingency plans from the affected facilities and worked with them to finalize those plans. The OEPA found various situations with respect to the availability of additional particulate emission reductions to meet the levels required in OAC Rule 3745–17–14. Some of the affected facilities do not have any significant reductions of PM emissions available, while others have some available reductions, but not enough to meet the required levels in OAC Rule 3745–17–14. Others have sufficient reductions available to fully meet the requirements. As a result, some affected facilities are not being required to commit to any contingency measure reductions.

The facilities which fully satisfy Rule 3745–17–14, are the Ford Motor Company's Cleveland Casting Plant, and the T & B Foundry Company. Ohio has issued Final Findings and Orders which incorporate the contingency plans for these sources.

The facilities which have some reductions available, but not enough to fully meet the required levels in OAC Rule 3745–17–14 are International Mill Service, Luria Brothers, and United Ready Mix (formerly Harval). Ohio has issued Final Findings and Orders which incorporate the contingency measures. Ohio also submitted fact sheets for these sources which explain why further reductions are not available.

The facilities which have no significant particulate emission reductions that are reasonably available are Granger Materials, Boyas Excavating, Cuyahoga Foundry Company, Drummond Dolomite (formerly Cleveland Builders Supply), Independence Excavating, Kenmore Asphalt Products (formerly Lake Erie Asphalt Products), Ohio Aluminum Industries, Schloss Paving Company, Standard Lafarge Company (formerly Standard Slag Company), Stein, Wheeling-Pittsburgh Steel Corporation (2 facilities: Mingo Junction and Steubenville).

In addition, two facilities, Boyas Excavating, and Satralloy, have shut down. LTV Steel Company (East Side and West Side) will have rule revisions that require no actual emission reductions. EPA guidance calls for contingency measures only in proportion to the actual reductions obtained by the nonattainment area. Because LTV has zero emissions reductions associated with the initial PM attainment plan, it was not required to commit to any contingency measure reductions.

While Ohio's Rule 3745–17–14 requires contingency emission reductions of the magnitude called for by the EPA (25% of the actual reductions in the SIP control plan), it was found that some sources were not able to reasonably obtain such reductions. Ohio carefully analyzed the facilities' contingency plans to ensure that all reasonably available measures are included. The EPA agrees that Ohio has obtained a sufficient level of reductions to provide for a reasonable level of continued progress toward the attainment goal during an interim period between any prospective determination that the SIP has failed to achieve RFP or provide for timely attainment of the NAAQS and the additional formal air quality planning following the determination. Ohio's PM contingency plan is, therefore, approvable by the EPA.

C. Enforceability

All measures and other elements in the SIP must be enforceable by the State and EPA (see Sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). State implementation plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C)).

The Final Findings and Orders issued by OEPA are clearly written, and are legally enforceable by OEPA. The Final Findings and Orders will be enforceable by the EPA upon their approval as a SIP revision. The EPA believes that the State's existing air enforcement program will be adequate to enforce PM contingency plans.

III. Final Action

The EPA approves Ohio's PM contingency measure rules, submitted by OEPA on July 17, 1995. This submittal addressed PM contingency measure plans that were due on November 15, 1993. The State's PM contingency measures are included in Final Findings and Orders issued by the OEPA. Previously approved OAC Rule 3745–17–14 requires that facilities implement the contingency measures upon receipt of a formal determination and notification by the OEPA or the EPA that the area is not in compliance with the NAAQS.

The EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, EPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on July 5, 1996, unless EPA receives adverse or critical comments by June 5, 1996. If EPA receives comments adverse to or critical of the approval discussed above, EPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in subsequent rulemaking. Please be aware that EPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, EPA hereby advises the public that this action will be effective on July 5, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 9, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small

entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: April 19, 1996.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(109) On July 17, 1995, Ohio submitted a Particulate Matter (PM) contingency measures State Implementation Plan (SIP) revision request. The submittal includes Final Findings and Orders for 5 companies. The Findings and Orders provide PM emission reductions which will take effect if an area fails to attain the National Ambient Air Quality Standards for PM.

(i) Incorporation by reference.

Director's Final Findings and Orders for Ford Motor Company (Cleveland Casting Plant), T&B Foundry Company, International Mill Service, Luria Brothers, and United Ready Mix, issued by the Ohio Environmental Protection Agency on July 10, 1995.

[FR Doc. 96–11200 Filed 5–3–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[UT18–1–6778a; FRL–5468–8]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Emission Statement Regulation, Ozone Nonattainment Area Designation, Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor of Utah on November 12, 1993, for the purpose of implementing an emission statement program for stationary sources within the Salt Lake and Davis Counties (SLDC) ozone nonattainment area. The emission statement inventory regulation, Utah Air Conservation Regulation (UACR) R307–1–3.5.4., was submitted by the State to satisfy the Clean Air Act (CAA), as amended in 1990, requirements for an emission statement program to be part of the SIP for Utah. EPA's approval will serve to make the emission statement inventory regulation federally enforceable. In addition, EPA is approving other minor changes involving definitions in UACR R307–1–1. and the ozone nonattainment area designation definition in UACR R307–1–3.3.3.

EFFECTIVE DATE: This final rule will be effective July 5, 1996, unless adverse comments are received in writing on or before June 5, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: Section 110(a)(2)(H)(i) of the CAA provides the State the opportunity to update its SIP as needed or to address new statutory requirements. The State is utilizing this authority of the CAA to include its emission statement inventory regulation as part of the SIP, to revise the ozone nonattainment area designation definition, and perform minor definition changes.

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the CAA. EPA previously published a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the CAA (refer to 57 FR 13498, dated April 16, 1992, ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule'', 57 FR 18070, dated April 28, 1992, ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental; Proposed Rule'', and 57 FR 55620, dated November 25, 1992, ''Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990''). EPA also issued guidance describing the requirements for emission statement programs, as discussed in this action, entitled ''Guidance on the Implementation of an Emission Statement Program'', dated July, 1992.

Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) describes requirements applicable to Marginal nonattainment areas. These requirements are also made applicable to all other ozone nonattainment area