

Copies of documents relevant to this action are available for public inspection during normal business hours at the following location: Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT:

Kaushal Gupta, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, telephone (312) 886-6803. For further information regarding OEPA's rules for public notice procedure, please contact Jorge Acevedo, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, telephone (312) 886-2263.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Rule which is published in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 6, 2001.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 02-3761 Filed 2-20-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN70-7295b; FRL-7136-5]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to approve a State Implementation Plan (SIP) revision for Dakota County, Minnesota, for the control of emissions of sulfur dioxide (SO₂) in the Pine Bend Area of Rosemount. The site-specific SIP revision for Koch Petroleum Group, LP (Koch) was submitted by the Minnesota Pollution Control Agency on May 2, 2001, and is approvable because it satisfies the requirements of the Clean Air Act. Specifically, EPA is proposing

to approve into the SO₂ SIP Amendment No. 5 to the Administrative Order for Koch. In the final rules section of this **Federal Register**, we are approving the SIP revision as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 25, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

FOR FURTHER INFORMATION CONTACT:

Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final notice which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353-8328 before visiting the Region 5 Office.)

Dated: January 16, 2002.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. 02-3757 Filed 2-20-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 253-0321b; FRL-7139-5]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a conditional approval of revisions to the El Dorado County Air Pollution Control District (EDCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_x) emissions from internal combustion engines. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by March 25, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT:

Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3960.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
EDCAPCD	233	Stationary Internal Combustion Engines	09/25/01	11/09/01

On January 15, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

On January 13, 2000, we published a final limited approval and limited disapproval of a version of this rule that had been submitted to EPA on October 20, 1994.

C. What Is the Purpose of the Submitted Rule?

EDCAPCD Rule 233 establishes NO_x emission limits for stationary internal combustion engines within the Federal ozone non-attainment area regulated by EDCAPCD. EPA published a limited approval and limited disapproval of a previous version of this rule because the following provisions conflicted with section 110 and part D of the Act.

1. Emission limits were significantly higher than those established as Reasonably Available Control Technology (RACT) by CARB.

2. Annual emission testing of all engines was not required.

3. Nonresettable fuel or hour meters were not required. The submitted revisions are designed primarily to correct these deficiencies. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating This Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require RACT for major sources in nonattainment areas (see sections 182(b)(2)(a) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). EDCAPCD regulates an ozone nonattainment area (see 40 CFR 81.305), so Rule 233 must fulfill RACT.

Guidance and policy documents that we used to help evaluate enforceability and RACT requirements consistently include the following:

1. Issue Relating to VOC Regulation, Cut points, Deficiencies, and Deviations

(the "Blue Book"), U.S. EPA, May 25, 1988.

2. *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendment of 1990* (the "NO_x Supplement to the General Preamble"), U.S. EPA, 57 FR 55620, Nov. 25, 1992.

3. *State Implementation Plans for National Primary and Secondary Ambient Air Quality Standards*, Section 110 of the Clean Air Act (CAA), and Plan Requirements for Nonattainment Areas, Title I, Part D of the CAA.

4. *Requirement for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR Part 51.

5. *Alternative Control Techniques (ACT) Document—NO_x Emission from Stationary Reciprocating Internal Combustion Engines* (EPA-453/R-93-032).

6. *CAPCOA/ARB Proposed Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines* State of California Air Resources Board, December, 1997.

B. Does the Rule Meet the Evaluation Criteria?

In EPA's January 2000 action on a previous version the Rule, we determined that it improved the SIP and fulfilled the relevant evaluation criteria except for three deficiencies. The submitted rule addresses these deficiencies as follows:

1. Emission limits have been significantly reduced in section 233.3(A).

2. Through an administrative error, the revisions to Rule 233 did not clearly require emission testing for all engines. By letter dated January 2, 2002, EDCAPCD has stated its intention to revise the rule appropriately by July 2002.

3. A nonresettable fuel and/or hour meter is required in section 233.5(D).

The submitted revisions are designed primarily to correct these deficiencies.

The TSD has more information about this rule.

C. Proposed Action and Public Comment

A January 2, 2002 letter from the EDCAPCD Air Pollution Control Officer stated his intention to submit a commitment through CARB to adopt and submit revisions to Rule 233 by July 2002. As authorized in section 110(k)(4) of the Act and based on the expectation that we will receive this commitment shortly, EPA is proposing a conditional approval of the submitted rule to improve the SIP. If finalized, this action would incorporate into the SIP both the submitted rule and the commitment from CARB to correct the identified deficiency. Pursuant to 40 CFR 52.31(d)(5), if finalized, this action would also permanently terminate all section 179 sanctions, sanctions clocks and section 110(c) FIP obligations associated with our January 2000 action.

This conditional approval shall be treated as a disapproval if EDCAPCD fails to adopt rule revisions to correct the deficiencies within one year. If this rule is disapproved, the stay of sanctions will be lifted under section 179 of the Act in accordance with 40 CFR 52.31. Please see our Interim Final Determination elsewhere in today's **Federal Register**. Note that the submitted rule has been adopted by EDCAPCD, and EPA's final conditional approval would not prevent the local agency from enforcing it.

We will accept comments from the public on the proposed conditional approval for the next 30 days.

III. Background Information

Why Was This Rule Submitted?

NO_x helps produce ground-level ozone, smog and particulate matter which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO_x rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.

TABLE 2.—OZONE NONATTAINMENT MILESTONES—Continued

Date	Event
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulation action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing and Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include

regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulations. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on

the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 23, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02-3916 Filed 2-20-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NO. UT-001-0037b; FRL-7143-1]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revision of Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Governor of Utah on April 19, 2000. The April 19, 2000 submittal revises Utah's Air Conservation Regulations by updating the definitions for "significant" and "volatile organic compound" to be in agreement with the federal definitions. The intended effect of this action is to make the definitions federally enforceable. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing on or before March 25, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents

relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT:

Laurel Dygowski, EPA, Region 8, (303) 312-6144.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 29, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 02-4065 Filed 2-20-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 0149-1149; FRL-7146-4]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to Missouri rule "Submission of Emission Data, Emission Fees, and Process Information." This revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in