

available through the RACT/BACT/LAER clearinghouse.

Utah and EPA have established provisions in the annual State-EPA agreement requiring the State to submit information from nonattainment NSR permits to EPA's RACT/BACT/LAER clearinghouse. Thus, a process has been established to meet this requirement.

(12) Section 173(e) of the Act provides that States may allow any existing or modified source that tests rocket engines or motors to use alternative or innovative means to offset emissions increases from firing and related cleaning, under certain conditions.

In lieu of imposing any alternative offset measures the permitting authority may impose an emission limit amounting to no more than 1.5 times the average cost of stationary control measures adopted in that area during the previous three years.

In UACR R307-1-3.3.3.A.(4), the State has adopted provisions for innovative offsetting for rocket engine and motor firing consistent with sections 173(e)(1) through (e)(4) of the Act.

(13) Section 328 requires that sources located on the outer continental shelf (OCS) must be subject to the same requirements as would be applicable if the source were located in the corresponding onshore area.

Since the State of Utah is landlocked and not adjacent to any oceans, this requirement is inapplicable.

(14) Revised section 302(z) of the Act sets forth a new definition of "stationary source" reflecting Congressional intent that certain stationary internal combustion engines are subject to State regulation under stationary source permitting programs, while certain "nonroad engines," defined in section 216(10), are generally excluded. On June 17, 1994, the EPA published regulations in 40 CFR Part 89 regarding new nonroad engines and vehicles, including a definition of nonroad engine (59 FR 31306).

EPA's action to approve this SIP revision is limited in that the action does not approve any regulation of nonroad engines in a manner inconsistent with section 209 of the Act and EPA regulations implementing section 209.

2. Applicability of Utah's Nonattainment NSR Provisions

EPA's initial review of the State's nonattainment NSR rules found that the applicability of the rules was unclear. Specifically, UACR R307-1-3.3.2.C. states that the nonattainment NSR provisions apply to a new or modified source if the Executive Secretary of the

Utah Air Quality Board finds that the emissions from the proposed source would contribute to an existing violation of the NAAQS. EPA identified concerns with this language in an August 25, 1994 letter to the State, since applicability of the Federal nonattainment NSR requirements is based on the fact that a new or modified major source proposes to *locate* in a nonattainment area. In an October 18, 1994 letter, the State Air Director provided clarification that, under the State's rules, any new major source or major modification proposing to construct in a nonattainment area would be considered to contribute to an existing violation of the NAAQS and would therefore be subject to all of the State's nonattainment NSR requirements. In addition, the State's letter further explained that there is a more general requirement in UACR R307-1-3.1.8.B. which specifically provides that the Executive Secretary may only issue a permit if it is determined to be in accord with the "new source review requirements for nonattainment areas under the Federal Clean Air Act." Thus, the State's regulations require the State to comply with the Federal nonattainment NSR requirements in approving any construction permit.

3. Nonattainment Area-Specific NSR Requirements

In addition to all of the general nonattainment NSR provisions mentioned above, there are also nonattainment area-specific NSR provisions in subparts 2, 3, and 4 of part D of the Act, some of which supersede these general NSR provisions because they are more stringent. The following provisions are the additional NSR provisions that apply in Utah's nonattainment areas and represent EPA's review of the State's regulation in meeting these requirements:

1. Ozone Nonattainment Areas

The general nonattainment NSR requirements discussed above are found in sections 172 and 173 of part D of title I of the Act and must be met in all nonattainment areas. Requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. In addition, section 182(f) of subpart 2 states that the requirements for major stationary sources of VOCs shall apply to major stationary sources of NO_x unless the Administrator makes certain determinations related to the benefits or contribution of NO_x control to air quality.

Utah currently has two ozone nonattainment areas: Davis County and

Salt Lake County, both of which are currently classified as moderate. (See 40 CFR 81.345 for Utah's ozone nonattainment area designations.) For moderate ozone nonattainment areas, States must submit the following NSR provisions, in addition to provisions meeting the general NSR requirements in sections 172 and 173 of the Act discussed above:

a. Definition of the term "major stationary source" that reflects the section 302(j) 100 tons per year (tpy) VOC and, presumptively, the 100 tpy NO_x thresholds for determination of whether a source is subject to the part D NSR requirements as a major source. In addition, a 40 tpy significance level for defining major modifications of both VOCs and NO_x must be established consistent with the significance level in 40 CFR 51.165(a)(1)(x).

b. Provisions to ensure that new or modified major stationary sources obtain offsets under section 182(a)(4) of the Act at a ratio of at least 1.15:1 in order to obtain an NSR permit.

In the applicable definition of "major source" in UACR R307-1-1, the State has established a 100 tpy threshold for any source of VOCs or NO_x located in an ozone nonattainment area or a lesser amount if required in part D of the Act. In addition, the definition of "major modification" in R307-1-1 provides that a modification that is significant for VOCs or NO_x shall be considered significant for ozone. The State has established a 40 tpy significance threshold for both VOCs and NO_x in the definition of "significant" in R307-1-1. Lastly, UACR R307-1-3.3.3.C. requires an offset ratio of at least 1.15:1 be met by new and modified sources proposing to locate in ozone nonattainment areas. Therefore, EPA finds that the State's NSR program meets the requirements for all of its ozone nonattainment areas.

In addition to meeting the NSR requirements for ozone nonattainment areas, the State has written the alternative siting analysis requirement in R307-1-3.1.10 and the 1.15:1 offset requirement in R307-1-3.3.3.C. to apply to new or modified major sources of VOCs or NO_x proposing to locate in the Salt Lake or Davis County area. In addition, the State has retained the nonattainment NSR thresholds for VOCs and NO_x for defining a major source proposing to locate in Salt Lake or Davis Counties (i.e., 100 tpy). Thus, the State intends these two nonattainment NSR provisions to apply in the Salt Lake and Davis County areas even after such areas are no longer designated nonattainment areas.