EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Explanation
Variance to regulation 603 for units 3, 4, and 5 of the Arizona Public Service.	Four Corners Power plant	07/31/80	03/30/82, 47 FR 13339	Ref 52.1640(c)(25).
New Mexico plan for Lead	Statewide	05/19/80	05/05/82, 47 FR 19334 and 08/14/84, 49 FR 32184.	Ref 52.1640(c)(27).
Revision to SO2 control strategy.	Grant county	05/12/81 and 08/13/81	05/05/82, 47 FR 19333	Ref 52.1640(c)(28).
Intergovernmental Consultation program.	N/A	03/28/80	03/08/84, 49 FR 08610	Ref 52.1640(c)(31).
Public Information and Participation program.	Statewide	12/20/79	08/24/83, 48 FR 38467	Ref 52.1640(c)(33).
Revision for attainment of CO standard.	Bernalillo county	06/28/82 and 01/26/83	07/01/83, 48 FR 30366	Ref 52.1640(c)(34).
Variance to regulation 603.B for units 3, 4, and 5 of the Arizona Public Service.	Four Corners Power Plant	02/04/87, 10/26/87, and 02/16/88.	10/27/89, 54 FR 43814	Ref 52.1640(c)(38).
Revision to SIP for moderate PM10 nonattainment areas.	Anthony area; Dona Ana county.	11/08/91	09/09/93, 58 FR 47383	Ref 52.1640(c)(50).
Narrative plan addressing CO nonattainment areas.	Albuquerque, Bernalillo county.	11/05/92	11/29/93, 58 FR 62535	Ref 52.1640(c)(52).
CO continency measures and proposed Clean Fuel Vehicle fleet demonstration.	Albuquerque, Bernalillo county.	11/12/93	05/05/94, 59 FR 23167	Ref 52.1640(c)(57).
Update to supplement to control air pollution.	Bernalillo county	11/09/94	06/24/96, 61 FR 32339	Ref 52.1640(c)(61).
Revision approving request for redesignation, a vehicle I/M program, and required maintenance plan.	Albuquerque, Bernalillo nonattainment area.	05/11/95	06/13/96, 61 FR 29970	Ref 52.1640(c)(63).

[FR Doc. 99–24688 Filed 9–23–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0034a; FRL–6441–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Longmont Carbon Monoxide Redesignation to Attainment and Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 19, 1998, the Governor of Colorado submitted a request to redesignate the Longmont ''moderate'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan. In this action, EPA is approving the Longmont CO redesignation request and the maintenance plan.

DATES: This direct final rule is effective on November 23, 1999 without further notice, unless EPA receives adverse comments by October 25, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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

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

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

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

Copies of the State documents relevant to this action are available for public inspection at: Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 80246–1530.

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

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

In this action, we are approving a change in the legal designation of the Longmont area from nonattainment for CO to attainment, and we're approving the maintenance plan that is designed to keep the area in attainment for CO for the next 16 years.

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(4)(A)(i)–(ii) of the Clean Air Act (CAA), we designated the Longmont area as nonattainment for CO because quality-assured ambient air quality data for 1988–1989 indicated that the Longmont area was violating the CO NAAQS. Longmont was classified as a ''moderate'' CO nonattainment area with a design value of less than or equal to 12.7 parts per million (ppm). See 56 FR 56694, November 6, 1991. Further information regarding this classification and the accompanying requirements are described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' See 57 FR 13498, April 16, 1992, and sections 186 and 187 of the CAA.

Under the CAA, we can change area designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA also requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur before the State submits the revision to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Carbon Monoxide (CO) Redesignation Request and Maintenance Plan for Longmont, on December 18, 1997. The AQCC adopted the redesignation request and maintenance plan directly after the hearing. The SIP revision became State effective March 2, 1998, and the Governor submitted the redesignation request and maintenance plan to us on August 19, 1998.

We have evaluated the Governor's submittal and have determined that the State met the procedural requirements of section 110(a)(2) of the CAA. The Governor's August 19, 1998, submittal became complete on February 19, 1999, by operation of law under section 110(k)(1)(B) of the CAA.

III. EPA's Evaluation of the Redesignation Request and Maintenance Plan

EPA has reviewed the State's redesignation request and maintenance plan and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements have been met.

(a) Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR § 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR § 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C, and designated in accordance with 40 CFR part 53, or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the CO standard over a one-year period. 40 CFR § 50.8 and 40 CFR part 50, Appendix C. If any monitor in the area's CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, our interpretation of the CAA and EPA national policy [1] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

Colorado's CO redesignation request for the Longmont area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Section III of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1989 through 1996 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Longmont nonattainment area. Data are also available for calendar years 1997 and 1998 that show no exceedances of the CO NAAQS. All of these data were collected and analyzed as required by EPA (see 40 CFR § 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in Section III of the maintenance plan and in the State's TSD.

We have evaluated the ambient air quality data and have determined that the Longmont area has not violated the CO standard and continues to demonstrate attainment. Therefore, the Longmont area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. We note too that the State of Colorado has committed, in the maintenance plan, to continue the necessary operation of the CO monitors in compliance with all applicable federal regulations and guidelines.

(b) Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that

[1] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the submission of a complete redesignation request.

1. CAA Section 110 Requirements

The Longmont CO element of the Colorado SIP was adopted by the AQCC on June 16, 1994, submitted by the Governor on July 13, 1994 and was approved by the EPA on March 10, 1997 (62 FR 10690). The 1994 SIP element's emission control plan was based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP), the Colorado Enhanced Inspection and Maintenance (EI/M) program for vehicles model year 1982 and newer (Colorado Regulation No. 11), an oxygenated fuels program (Colorado Regulation No. 13), and emission standards for wood-burning stoves and fireplace inserts (Colorado Regulation No. 4).

By virtue of our March 10, 1997, approval of the Longmont CO SIP, the State has met the applicable requirements of section 110 of the CAA.

2. Part D Requirements

Before the Longmont CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether the area was classified or nonclassifiable for CO.

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (see 57 FR 13498, April 16, 1992) provides EPA's interpretations of the CAA requirements for moderate CO areas with design values of less than 12.7 ppm.

Under section 172(b), the applicable section 172(c) requirements, as determined by the Administrator, were due November 15, 1992, for the Longmont nonattainment area. As the Longmont CO redesignation request and maintenance plan were not submitted by the Governor until well after November 15, 1992, (actually, August 19, 1998), the General Preamble (see 57 FR 13529) provides that the applicable requirements of CAA section 172 were 172(c)(3) (emissions inventory), 172(c)(5)(new source review permitting program), 172(c)(7)(the section 110(a)(2) air quality monitoring requirements)), and contingency measures (CAA section 172(c)(9)). It is also worth noting that we interpret the requirements of sections 172(c)(1) (reasonable available control measures—RACM), 172(c)(2) (reasonable further progress—RFP), and 172(c)(6)(other measures), as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4)(identification of certain emissions increases) and 172(c)(8)(equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR § 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

The applicable requirements of CAA section 172 are discussed below.

A. Section 172(c)(3)—Emissions Inventory. Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the Longmont nonattainment area. The Governor submitted a 1990 base year emissions inventory for Longmont on December 31, 1992, with subsequent revisions being submitted on July 11, 1994, and October 21, 1994. We approved this 1990 base year CO emissions inventory on December 23, 1996 (see 61 FR 67466). In addition to meeting the requirements of section 172(c)(3) of the CAA, this inventory also fulfilled the CAA section 187(a)(1) requirement noted below.

B. Section 172(c)(5) New Source Review (NSR). The CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Colorado has a fully-approved NSR program (59 FR 42500, August 18, 1994) that meets the requirements of CAA section 172(c)(5). The State also has a fully approved Prevention of Significant Deterioration (PSD) program (59 FR 42500, August 18, 1994) that will apply after the redesignation to attainment is approved by us.

C. Section 172(c)(7)—Compliance With CAA section 110(a)(2): Air Quality Monitoring Requirements. According to our interpretations presented in the General Preamble (57 FR 13498), CO nonattainment areas are to meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA as explicitly referenced by sections 172(b) and (c) of the CAA. With respect to this requirement, the State indicates in Section III. (''Air Quality'') of the maintenance plan, that ambient CO monitoring data have been properly collected and uploaded to EPA's Aerometric Information and Retrieval System (AIRS) for the Longmont area. Air quality data through 1996 are included in Section III. of the maintenance plan and in the State's TSD. We recently polled the AIRS database and verified that the State has uploaded additional ambient CO data through 1998. The data in AIRS indicate that the Longmont area has shown, and continues to show, attainment of the CO NAAQS. Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Colorado's annual network reviews and have agreed that the Longmont network remains adequate. Finally, in Section VI. B. of the maintenance plan, the State commits to the continued operation of the existing CO monitoring network, according to all applicable Federal regulations and guidelines, even after the Longmont area is redesignated to attainment for CO.

D. Section 172(c)(9) Contingency Measures. According to our interpretations presented in the General Preamble (see 56 FR 13532), moderate CO nonattainment areas, such as Longmont, were required to submit contingency measures to address the requirements of section 172(c)(9) of the CAA. These contingency measures were to become effective, without further action by the State or us, upon a determination by us that an area had failed to achieve reasonable further progress (RFP) or to attain the CO NAAQS by December 31, 1995. To address this CAA requirement, the Governor submitted a contingency measure to EPA on July 13, 1994. We approved this submittal on March 10, 1997 (see 62 FR 10690).

In addition to the above, subpart 3 of the November 15, 1990, CAA amendments required the Longmont CO SIP to include a 1990 base year emissions inventory (CAA section 187(a)(1)), corrections to existing motor vehicle inspection and maintenance(I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), and an oxygenated fuels program (CAA section 211(m)(1)). How the State met these additional requirements and our approvals, are described as follows:

E. 1990 base year emissions inventory (CAA section 187(a)(1)). The Governor submitted a 1990 base year emissions inventory for Longmont on December 31, 1992, with subsequent revisions being submitted on July 11, 1994, and October 21, 1994. We approved this 1990 base year CO emissions inventory on December 23, 1996 (see 61 FR 67466).

F. Corrections to the Longmont basic I/M program (CAA section 187(a)(4)). A July 14, 1994, Governor's submittal for Longmont provided that the area was included in the metro-Denver nonattainment area's motor vehicle enhanced inspection and maintenance (EI/M) program. We approved Colorado's EI/M program March 10, 1997 (see 62 FR 10690).

G. Periodic emissions inventories (CAA section 187(a)(5)). A periodic emission inventory (for calendar year 1993) was required for Longmont because the Governor did not submit a complete redesignation request and maintenance plan before September 30, 1995. On September 16, 1997, the Governor submitted a SIP revision for a 1993 periodic emission inventory for Longmont. We approved this revision on July 15, 1998 (see 63 FR 38087).

H. Oxygenated fuels program (CAA section 211(m)). Section 211(m) of the CAA requires any CO nonattainment area with a design value of 9.5 ppm CO or greater to implement an oxygenated fuels program. The Governor submitted a revision to Colorado's Regulation No. 13, on November 27, 1992, to address the oxygenated fuels requirement of the CAA for all applicable areas in Colorado, including Longmont. We approved this revision on July 24, 1994 (see 59 FR 37698). Regulation No. 13 was revised, to shorten the oxygenated fuels program season (first shortening) by deleting the last two weeks of February from the program. The Governor submitted this revision to Regulation No. 13 on September 29, 1995, and December 22, 1995. We approved this revision on March 10, 1997 (see 62 FR 10690). Regulation No. 13 was further revised, to again shorten the oxygenated fuels program season (second shortening) by deleting the second week of February and to reduce the fuel oxygen content for the first week of November. The Governor submitted these revisions on October 1, 1998, and we published a direct final approval of them on August 25, 1999 (64 FR 46279).

(c) Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA provides that for an area to be redesignated to attainment, we must have fully approved the applicable implementation plan for the area under section 110(k).

As noted above, we previously approved the Longmont CO nonattainment area SIP revisions. In this action, we are approving the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan). Thus, we have fully approved the Longmont CO SIP under section 110(k) of the CAA.

(d) Redesignation Criterion: The Area Must Show That The Improvement In Air Quality Is Due To Permanent And Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions for Longmont, that are further described in Section IV. of the August 19, 1998, Longmont maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), Colorado's Regulation No. 11, which defines a decentralized basic motor vehicle inspection and maintenance program (for vehicles model year 1981 and older) and an enhanced motor vehicle inspection and maintenance (EI/M) program (for vehicles model year 1982 and newer), the oxygenated fuels program (Colorado Regulation No. 13), and emission standards for wood-burning stoves and fireplace inserts (Colorado Regulation No. 4).

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as Longmont. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

In addition, significant emission reductions were realized for Longmont due to the implementation of both the basic I/M program and, beginning in January of 1995, Colorado's enhanced I/M program. Colorado's Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'', contains a full description of the I/M requirements applicable for Longmont.

Oxygenated fuels are gasolines that are blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. Colorado's Regulation 13, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the Longmont nonattainment area. Regulation 13 specifies the minimum oxygen content (by weight) that all Longmont-area gas stations' fuels must comply with during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

Colorado's Regulation No. 4 contains emission standards (which comply with Federal standards) for all new woodburning stoves and fireplace inserts sold in Colorado. These emission standards have reduced, and will continue to reduce, the growth in CO emissions and other pollutants from woodburning devices. Regulation No. 4, with its most recent revisions, was approved by us into the Colorado SIP on April 17, 1997 (62 FR 18716).

We have evaluated the various State and Federal control measures, the original 1990 base year emission inventory (see 61 FR 67466, December 23, 1996), and the 1993 attainment year emission inventory, and have concluded that the improvement in air quality in the Longmont nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e) Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992. In this **Federal Register** action, EPA is approving the maintenance plan for the Longmont nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the Governor's August 19, 1998, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble and the September 4, 1992, policy memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the Longmont area, the State selected the emissions inventory approach for demonstrating maintenance of the CO NAAQS.

The maintenance plan that the Governor submitted on August 19, 1998, included comprehensive inventories of CO emissions for the Longmont area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 1993 as the year from which to develop the attainment year inventory and included interim-year projections out to 2015. More detailed descriptions of the 1993 attainment year inventory and the projected inventories are documented in the maintenance plan in Section V. and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 1993 attainment year and the interim projected years are provided in Table III.—1 below.

TABLE III.–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR LONGMONT

	1993	2000	2005	2010	2015
Point Sources	0.18	0.21	0.23	0.25	0.27
Area Sources	2.35	2.02	1.79	1.60	1.42
Non-Road Mobile Sources	5.63	6.49	7.11	7.72	8.33
On-Road Mobile Sources	26.59	15.49	14.66	16.11	16.76
Total	34.76	24.21	23.79	25.68	26.78

2. Demonstration of Maintenance—Projected Inventories

As noted above, the State projected total CO emissions for the years 2000, 2005, 2010, and 2015. The State prepared these projected inventories in accordance with our guidance (further information is provided in Section V. of the maintenance plan). The projected inventories show that CO emissions are not estimated to exceed the 1993 attainment level during the time period 1993 through 2015 and, therefore, the Longmont area has satisfactorily demonstrated maintenance.

3. Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Longmont area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in Section VI.B. of the maintenance plan. In Section VI.B., the State commits to continue the operation of the CO monitors in the Longmont area and to annually review this monitoring network and make changes as appropriate. Also, in Section VI.B., the State commits to prepare a periodic emission inventory of CO emissions every three years after the maintenance plan is approved by EPA. The above commitments by the State, which will be enforceable by us following the final approval of the Longmont maintenance plan SIP revision, are deemed adequate by EPA.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. As stated in Section VI. of the maintenance plan, the contingency measures for the Longmont area will be initially triggered by an exceedance of the CO NAAQS. Upon an exceedance of the CO NAAQS, the State and Longmont will convene a committee to recommend for adoption appropriate local contingency measures to correct a potential violation of the CO NAAQS (i.e., a second non-overlapping 8-hour average ambient CO measurement that

exceeds 9.4 ppm at a single monitoring site during a calendar year is a violation of the 8-hour CO NAAQS). This process will take approximately six months. The Colorado AQCC will review the local contingency measures and if the AQCC concurs, the AQCC may endorse or approve the local measures without adopting State requirements. If, however, the AQCC finds that locally adopted contingency measures are inadequate, the AQCC will adopt State enforceable measures as deemed necessary to prevent additional exceedances or a violation. The maintenance plan further states that contingency measures will be adopted and fully implemented within one year of a CO NAAQS violation. The potential contingency measures that are identified in Section VI.D. of the Longmont maintenance plan include increasing the required 2.7 percent minimum oxygen content of gasoline to a level above the actual oxygen content of gasolines at the time of the violation, improvements to Longmont's basic I/M program, increase enforcement of the woodburning curtailment program, establish a two for one buy-down program for installation of woodburning devices and/or pellet stoves in new homes and/or buildings in excess of one device, prohibit the installation of any woodburning device and/or pellet stove in new housing and/or building construction projects, establish voluntary no-drive days on high pollution days, and other measures that may be considered appropriate. A more complete description of the triggering mechanism and these contingency measures can be found in Section VI of the maintenance plan.

Based on the above, we find that the contingency measures provided in the State's maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan SIP revision eight years after the approval of the redesignation. This provision for revising the maintenance plan is contained in Section VI.E. of the Longmont maintenance plan.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budgets in the SIP (40 CFR sections 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

Section IV.C.3.c.1 of the Longmont maintenance plan describes an emissions budget for on-road mobile sources for the years 1998 and beyond as being 27 tons per day (TPD) of CO. The Denver Regional Council of Governments (DRCOG), which is the area's Metropolitan Planning Organization (MPO), and the State derived the 27 TPD number for 1998 and beyond from the 2015 maintenance year inventory value for on-road mobile sources along with a safety margin calculated based on a 1995 inventory. We cannot approve this 27 TPD value as a budget for conformity purposes because the budget is not consistent with maintenance of the CO NAAQS.[2] See 40 CFR 93.118(e)(4)(iv). The attainment year's mobile source budget of 27 TPD does not provide for maintenance of the CO NAAQS when combined with the increasing emissions levels from non-mobile sources during the 1998–2014 period (i.e., use of the 27 TPD budget for any year after 1998 would push total emissions over the maintenance plan's attainment year level of 34.76 TPD)[3]. Thus, we are taking no action on language in section IV.C.3.c. of the maintenance plan in which the State established an emissions budget for 1998 and beyond of 27 TPD of CO. The effect of this is that DRCOG and the State may not use 27 TPD as the budget for conformity purposes.

Instead, consistent with our conformity regulations and the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96), we are approving the 2015 mobile source emissions inventory value of 16.76 TPD of CO as the emissions budget. This 16.76 TPD budget will apply for 2015 and beyond. See 40 CFR 93.118(b)(2)(ii). For the years prior to 2015, conformity determinations must be conducted in accordance with 40 CFR 93.118(b)(2)(i).

Finally, based on the discussion above, the emissions budget definition in the Colorado Ambient Air Quality Standards regulation (5 CCR 1001–14) is incorrect as it applies the 27 TPD figure to 1998 and beyond. As indicated above, we cannot approve the 27 TPD budget and it cannot be used for conformity determinations.

V. Final Action

In this action, EPA is approving the Longmont carbon monoxide redesignation request and the maintenance plan.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 23, 1999 without further notice unless the Agency receives adverse comments by October 25, 1999.

If EPA receives such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 23, 1999 and no further action will be taken on the proposed rule.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866,

[2] Pursuant to Section 93.118(e)(4) of the Transportation Conformity Rule (40 CFR Part 93, Subpart A), we previously reviewed the adequacy of the maintenance plan's carbon monoxide emissions budgets for purposes of coformity. In a May 14, 1999 letter, from Richard R. Long, Director, Air and Radiation Program, EPA Region VIII, to Margie Perkins, Director, Air Pollution Control Divison, Colorado Department of Public Health and Environment, we determined that the emissions budget for 1998 and beyond (27 tons per day) was inadequate for conformity purposes. Although this action is consistent with our prior adequacy determination, it should be noted that, in taking final action on the maintenance plan, we are not bound by our pror adequacy determination. See 62 FR 43782, August 15, 1997.

[3] The State used a 1995 inventory to determine the amount of the safety margin for establishing an emissions budget. The maintenance demonstration is based on a 1993 inventory. It is not appropriate to use one inventory for purposes of demonstrating maintenance and another inventory for purposes of calculating the safety margin for a motor vehicle emissions budget.

entitled ''Regulatory Planning and Review.''

(b) Executive Orders on Federalism

(1) Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on state, local, or tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

(2) Executive Order 12612: Executive Order on Federalism

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 (64 FR 43255, August 10, 1999), which will take effect on November 2, 1999. In the interim, Executive Order 12612 (52 FR 41685, October 30, 1987) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

(c) Executive Order 13045

Executive Order 13045, *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 and 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 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(e) 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 final 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 approve 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 a 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). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

(f) 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 the 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 approval action promulgated 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 Federal action approves a redesignation to attainment and 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, will result from this action.

(g) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

(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. The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conductive to the use of VCS.

(i) Petitions for Judicial Review

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 November 23, 1999. 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).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13–25–126.5, 13–90–107, and 25–1–114.5, Colorado Revised Statutes (Colorado Senate Bill 94–139, effective June 1, 1994), or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: September 10, 1999.

William P. Yellowtail,

Regional Administrator Region VIII.

Chapter I, title 40, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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

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

Subpart G—COLORADO

2. Section 52.349 is amended by adding paragraph (d) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(d) Revisions to the Colorado State Implementation Plan, Carbon Monoxide Redesignation Request and Maintenance Plan for Longmont, as adopted by the Colorado Air Quality Control Commission on December 18, 1997, State effective March 2, 1998, and submitted by the Governor on August 19, 1998.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.306, the table entitled ''Colorado-Carbon Monoxide'' is amended by revising the entry for ''Longmont Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*	*		*
Longmont Area	November 23, 1999	Attainment.		
Hwy 52 west from the Boulder/Weld County line to 95th Street/Hoover Road, then north on 95th Street/Hoover Road to the intersection of Plateau Road and SH 119, then west on Plateau Road to the intersection of Hygiene Road, then due north to the Boulder/Larimer County line, then due east to the intersection of the Boulder/Larimer/Weld County lines, then south along the Boulder/Weld County line to Hwy 52, plus the portion of the City of Longmont east of the Boulder/Weld County line in Weld County.				
Boulder County (part):				
Weld County (part):				

COLORADO—CARBON MONOXIDE—Continued

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*	*	*	

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 99–24906 Filed 9–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL 6443–5]

Vermont: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Vermont has applied to EPA for Final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Vermont's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, EPA will withdraw this immediate final rule and it will not take effect. EPA will then address public comments in a later final rule. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action, must do so at this time.

DATES: This final authorization will become effective on November 23, 1999, without further notice, unless EPA receives adverse comments by October 25, 1999. Should EPA receive such comments, the Agency will publish a timely document in the **Federal Register** withdrawing this rule.

ADDRESSES: Send written comments to Geri Mannion, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Phone Number: (617) 918–1648. You can view and copy Vermont's application at the following addresses: The Agency of Natural Resources, Vermont Department of Environmental Conservation, Waste Management Division, 103 South Main Street—West Office Building, Waterbury, VT 05671–0404; Phone number: (802) 241–3888; Business Hours: 7:45 A.M. to 4:30 P.M., Monday through Friday and EPA Region I Library, One Congress Street, Suite 1100 (LIB), Boston, MA, 02114–2023; Phone number: (617) 918–1990; Business Hours: 8:30 A.M. to 5:00 P.M., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Geri Mannion, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Phone Number: (617) 918–1648.

SUPPLEMENTARY INFORMATION:

Technical Corrections

In addition to authorizing the changes to Vermont's hazardous waste program, EPA is making technical corrections to provisions referenced in its immediate final rule published in the **Federal Register** on May 3, 1993 (58 FR 26242) and effective August 6, 1993 (58 FR 31911) which authorized the State for other earlier revisions to its hazardous waste program.

A. Why Are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Vermont's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Vermont Final authorization to operate its hazardous waste program with the changes described in the authorization application. Vermont has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. However, when today's approval takes effect, Vermont will be authorized to administer almost all of these HSWA requirements, as well as being authorized for almost all the pre-HSWA requirements.

C. What is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Vermont subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Vermont has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Full authority to enforce RCRA requirements and suspend or revoke permits

This action does not impose additional requirements on the regulated community because the regulations for which Vermont is being authorized by today's action are already effective, and are not changed by today's action.